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TO: Plan Commission
FROM: Planning and Zoning Staff
DATE: April 14, 2015
SUBJECT: Proposed Zoning Text Changes

The following staff discussion and general recommendations relate to zoning text items prioritized by the Plan Commission at a March, 2014 Plan Commission Work Session. Please note that for some of the items, staff is seeking input from the Plan Commission before recommending a specific set of text changes. A status update to the list of priority text changes will also be provided to Commissioners.

Item 2.4 – Varied building placement requirements for sites with multiple buildings

The commercial/mixed use and employment zoning districts include specific building and parking placement regulations. While the standards vary from district to district, the general design intent is to bring buildings closer to street and minimize the amount of surface parking between the building and the street. This remains an important part of the code, however, the current standards provide a challenge for development sites that include multiple free-standing buildings. In many districts, the code requires all buildings be sited at the street and would not allow second buildings to be located elsewhere on the lot.

At the April 14, 2014 meeting, staff is intending to have an initial discussion on this topic with the Plan Commission. Based on this discussion, staff will return with more specific language and recommendations. Below is a list of considerations and some general approaches on how the issue could be addressed.

- One option would be to develop new supplemental regulations for planned multi-use sites that specify that at least one building shall meet the building placement requirements. Once that standard is met, other buildings could be developed elsewhere on the site, consistent with allowable setbacks. A phasing component could also be added requiring that the street-oriented building be constructed before or concurrently with buildings located elsewhere on the site.
- With the above approach, a further requirement could specify a minimum building size (e.g. minimum length/percentage of lot frontage or minimum height) prior to allowing other buildings built towards a site's interior.

- A second option would be to allow the Plan Commission to approve an alternative site layout (with different frontage requirements) for planned multi-use sites as part of a conditional use process. This would expand the number of planned multi-use sites that are required to be approved by the Plan Commission.
- Under either of the above approaches, the role of the UDC should be considered. UDC currently reviews all planned multi-use sites in which there is 40,000 square feet of gross floor area where 25,000 is designed or intended for retail, hotel or motel use. This could potentially be expanded to cover more developments in exchange for offering greater setback flexibility.
- Finally, the Plan Commission should consider the districts in which revised standards apply. The original zoning memo focuses on the CC-T, CC, and Employment Districts. Note that multi-building sites are also allowed in other districts including NMU, and TSS.

Item 2.5 – Create new, more limited district with similar dimensional standards as UMX

As requested by the Plan Commission, staff has drafted a new mixed use district for use in the Downtown with the same setbacks and lot coverage requirements as in the Urban Mixed-Use (UMX) District, but fewer allowable uses. This district is envisioned as appropriate for commercial or mixed use nodes within predominantly residential areas of the Downtown. In the draft use list (Table 28E-2), staff has recommended maintaining most office and retail sales and service uses, but excluding or allowing more scrutiny for several uses from the following groups: food and beverage; commercial recreation, entertainment, and lodging; automobile services; and limited production, processing, and storage.

Details on the recommended uses can be found in the attached DRAFT Table 28E-2, where the proposed new district is at least temporarily named “Downtown Limited Mixed Use” (DLMX). Changes have also been proposed to Section 28.073, Downtown District Building Forms, to reflect the additional residential building forms recommended for the DLMX District.

Item 2.16 – Demolition exemption for fire damaged single-family homes

The 1966 Zoning Code was amended in 2009 to include an exemption that allowed a principal building damaged by fire or natural disaster to be demolished without Plan Commission approval if the replacement building was built “to its previous bulk condition.” In practice, the use of this provision has been limited due to the difficulty in quantifying the previous bulk condition as well as the impact of ever-evolving building and fire codes on the form of the replacement building, which can cause enough variance from how the demolished building was constructed to how its replacement would need to be constructed to allow it to be found that the replacement building does not reflect the previous bulk condition. Also, some applicants have used the occasion of needing to rebuild following a fire or natural disaster to make modest upgrades or improvements to their building, which has further complicated finding that the previous bulk condition criteria is met. Staff cannot recall an instance where a demolition permit for a building damaged by fire or natural disaster and its replacement building were not approved by the Plan Commission, and in many of those cases, on the consent agenda.

Therefore, Planning and Zoning staff propose to introduce a similar exemption into the new Zoning Code that would allow slightly more flexibility to allow applicants to construct a replacement building for one razed due to fire or natural disaster to a *similar* bulk condition without Plan Commission approval. The proposed language that follows would require that the length, width or height of the replacement building not be more than two (2) feet greater than the demolished building. The language would also require similar placement for the new structure on the lot, an allowance to match an existing non-conforming setbacks, and would establish a timeline by which the permits must be secured. In consideration of non-conforming structures, these provisions are generally consistent with state law and case law allowing for replacement of a damaged nonconforming structure. Staff believes that inclusion of such a provision in the new Zoning Code would allow owners of properties affected by fire or natural disaster to rebuild more quickly while ensuring that the character of the neighborhood is not significantly changed by the replacement building.

“(6) Exemptions.

(a) Demolition or removal permits may be issued without the approval required in Subdivision (5) above whenever any one (1) of the following conditions is present, provided that: the subject building has not been used at any time as a single-family or multiple-family dwelling in whole or in part, is not a landmark, and is not located in an Historic District or Neighborhood Conservation District:

- 1. The Director of the Building Inspection Division finds that the building proposed to be demolished or removed is structurally unsound, subject to an appeal as provided in Sec. 29.18, MGO. The applicant may support the request with the report of a licensed architect or engineer certifying and providing reasons that the building is structurally unsound.*
- 2. The Director of the Building Inspection Division determines that the building proposed to be demolished or removed is an accessory building as defined in Sec. 28.211.*

(b) Demolition or removal permits may be issued without the approval required in Subdivision (5) above whenever the subject building is being demolished due to damage by fire or other natural disaster and reconstructed to a similar bulk condition, at a similar location on the zoning lot, utilizing existing setbacks, as follows:

- 1. Neither the length, width, or height of the replacement building shall be more than two (2) feet greater than the length, width, or height of the building to be demolished; and*
- 2. The location of the replacement structure shall be placed in a similar location to the existing structure. If the damaged structure has a non-conforming setback, no side of the enlarged structure may be moved closer to any lot line with which there is a non-conforming setback.*
- 3. Demolition and building permits shall be issued within one (1) year of the incident of loss.*

Item 2.20 – Management plans for cooperative housing and multifamily residential development

Planning Division Staff and the Plan Commission have requested over time a variety of materials related to the management of multi-family residential development (there have been no recent conditional use requests for housing cooperatives). The zoning ordinance currently does not specify components of management plan for these uses, but staff and the Plan Commission have noted the importance of management plans as they relate to conditional use standards.

For multi-family residential development, the following items are frequently requested, either for review prior to a Plan Commission decision, or as a condition of approval for later staff review:

- Parking management plans (particularly for proposals that have lower parking ratios)
- Snow removal and trash management
- Hours and scope of operations for on-site staffing (particularly for very large proposals)
- Security plans
- Management of shared open spaces such as rooftop patios and terraces

To date, staff has sometimes recommended that applicants compile management plans as a way to address specific conditional use standards related to impacts on surrounding properties, parking, and other issues. In order to clarify expectations for management plans, and to provide ordinance support for requiring them as part of the submittal to be reviewed by the Plan Commission, staff recommends adding a new Supplemental Regulation in Section 28.151 for “Dwelling Units in Mixed-Use Buildings” and “Multi-family Residences” as follows:

“For buildings with over 8 dwelling units requiring conditional use review, the owner shall submit a Management Plan with the following required components: Parking management; snow removal; refuse management; a security plan; management of shared open spaces; hours and scope of operations for on-site staffing”

For housing cooperatives, staff does not have a recommendation at this time for a management plan. However, in order for the ordinance to better support the Plan Commission’s ability to request management plans for any conditional use request, staff recommends that Section 28.183(6)b be modified as follows:

“(b) Conditions. Before granting a conditional use, the Plan Commission may stipulate conditions and restrictions on the establishment, location, construction, maintenance, and operation of the conditional use, including the approval of a management plan for the property. In doing so, the Plan Commission may consider overdue taxes and/or fees and the applicant’s history of compliance with relevant ordinances and approvals, including but not limited to, building and minimum housing code, zoning code and zoning approvals, and alcohol license provisions and approvals.”

Section 28.072(1)

Table 28E-2

Downtown and Urban Districts							
	DC	UOR	DLMX (PROPOSED)	UMX	DR1	DR2	Supplemental Regulations
Offices							
Artist, photographer studio, etc.	P	P	P	P			
Insurance office, real estate office, sales office	P	P	P	P			
Professional office, general office	P	P	P	P			
Medical Facilities							
Clinic, medical, dental or optical	P	C	P	P			
Hospital	C		€	C			Y
Medical laboratory	P	C	P?	P			
Physical, occupational or massage therapy	P	P	P	P			
Veterinary clinic	P	P	P	P			Y
Retail Sales and Services							
General retail	P		P	P			
Animal grooming	P		P	P			
ATM	C		C	C			Y
Bank, financial institution	P		P	P			
Business sales and services	P		P	P			
Farmers' market	P		P	P			Y
Food and related goods sales	P		P	P			
Free-standing vending carts	C						
Furniture and household goods sales	P		P	P			
Garden center			€	C			
Home occupation	P/C	P/C	P/C	P/C	P/C	P/C	Y
Laundromat, self-service	P		P	P			
Liquor store	P		P	P			
Limited retail use of a landmark site or building	P	P	P	P	C	C	Y
Mortuary, funeral home	P		P	P			
Non-accessory temporary outdoor events	C		€	C			Y
Animal daycare	C		€	C			Y
Post office	P	P	P	P			
Service business	P		P	P			
Contractor's business with showroom or workshop	C		€	C			Y
Sporting goods store, bait shop	P		P	P			
Tattoo shop	P		P	P			
Food and Beverages							
Brewpub	P		€	P			
Catering	P		€	P			

Downtown and Urban Districts							
	DC	UOR	DLMX (PROPOSED)	UMX	DR1	DR2	Supplemental Regulations
Coffee shop, tea house	P		P/C	P			
Nightclub	C		€	C			Y
Restaurant	P		P/C	P			Y
Restaurant-nightclub	P/C		P/C	P/C			Y
Restaurant-tavern	P		P	P			Y
Tavern	P		P	P			Y
Commercial Recreation, Entertainment and Lodging							
Bed and breakfast establishment	P	C	P/C	P	C	C	Y
Health/sports club	P		P/C	P			
Hostel	P		P	P			
Hotel, inn, motel	P		P	P			
Indoor recreation	P		P	P			
Outdoor recreation	C		€	C			Y
Lodge, private club, reception hall	P	C	P	P			Y
Theater, assembly hall, concert hall	P		P	P			
Tourist rooming house	P	P	P	P	P	P	Y
Automobile Services							
Auto body shop			€	C			Y
Auto service station, convenience store	C		€	C			Y
Auto repair station	C		€	C			Y
Auto sales and rental	C		€	C			Y
Motorcycle and moped sales	C		€	C			
Parking, Storage and Display Facilities							
Parking facility, public	P	P	P	P			
Parking facility, private	P		€	C			
Parking lot exceeding maximum required parking	C	C	C	C			
Transportation							
Bus or railroad passenger depot	C		€	C			
Railroad right-of-way	P	P	P	P			
Transit stop or station	C	P	€	C			
Limited Production, Processing and Storage							
Artisan workshop	P		P	P			
Laboratory, research and development	C	C	€	C			
Limited production and processing	C						Y
Printing and publishing			P	P			
Wholesale establishment			€	C			

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Downtown and Urban Districts							
	DC	UOR	DLMX (PROPOSED)	UMX	DR1	DR2	Supplemental Regulations
Residential - Family Living							
Single-family detached dwellings			<u>C</u>		P	P	
Two-family dwelling – two unit			<u>C</u>		P	P	
Two-family dwelling - twin							
Three-family dwelling – three unit			<u>C</u>		P	P	
Single-family attached dwelling (3-8 dwelling units)		P	P <u>C</u>	P	P	P	
Single-family attached dwelling (> 8 dwelling units)		P	P <u>C</u>	P	C	C	
Dwelling units in mixed-use buildings	P	C	P	P			Y
Multi-family dwelling (4 dwelling units)	P	P	P <u>C</u>	P	P	P	Y
Multi-family dwelling (5-8 dwelling units)	P	P	P <u>C</u>	P	C	P	Y
Multi-family dwelling (> 8 dwelling units)	P	C	C	C	C	C	Y
Residential building complex	C	C	C	C	C	C	Y
Residential - Group Living							
Adult family home	P/C	P/C	P/C	P/C	P/C	P/C	Y
Assisted living, congregate care, skilled nursing facility	C	C	P	P		C	Y
Cohousing community	P/C	P/C	P/C	P/C	C	C	Y
Community living arrangement (up to 8 residents)	P		P	P	P	P	Y
Community living arrangement (9-15 residents)	C		C	C	C	C	Y
Community living arrangement (>15 residents)					C	C	Y
Convent, monastery or similar residential group	C	C	P	P	C	C	Y
Daytime shelter	C	C	C	C	C	C	Y
Dormitory	C	C	P <u>C</u>	P			Y
Housing cooperative	P/C	P/C	P	P	P/C	P/C	Y
Lodging house, fraternity or sorority	C	C	P <u>C</u>	P		C	Y
Mission house	C	C	C	C	C	C	Y
Civic and Institutional							
College, university	C	C	C	C			
Community Event	P/C	P/C	P/C	P/C	P/C	P/C	Y
Correctional Facility	C						
Counseling, community services organization	P	P	P	P			
Day care center	P	C	P	P	C	C	Y
Library, museum	P	C	P	P		C	
Parks and playgrounds	P	P	P	P	P	P	
Place of worship	P/C	P/C	P/C	P/C	P/C	P/C	Y
Public safety facilities	P	P	P	P	P	P	

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Downtown and Urban Districts							
	DC	UOR	DLMX (PROPOSED)	UMX	DR1	DR2	Supplemental Regulations
Schools, public and private	P	C	P/C	P	C	C	Y
Schools, arts, technical or trade	C	C	C	C		C	Y
Agriculture							
Community garden	P	P	P	P	P	P	
Market garden	C	C	C	C	C	C	Y
Public Utility and Public Service Uses							
Class 2 Collocations	P	P	P	P	P	P	
Electric substations	C	C	C	C	C	C	
Gas regulator stations, mixing and gate stations	C	C	C	C	C	C	
Radio Broadcast Service Facility	P	P	P	P	P	P	
Telecommunications towers, Class 1 Collocations, and transmission equipment buildings	P	P	P	P	P	P	
Sewerage system lift stations	C	C	C	C	C	C	Y
Water pumping stations, water reservoirs	C	C	C	C	C	C	
Accessory Uses and Structures							
Accessory retail alcohol sales	P		P	P			
Emergency electric generator	P		P	P	P	P	Y
Accessory building or structure	P/C	P/C	P/C	P/C	P/C	P/C	Y
Accessory dwelling unit					C	C	Y
Farmers market		P	P	P	P	P	Y
Keeping of chickens	P	P	P	P	P	P	Y
Keeping of honeybees	P	P	P	P	P	P	Y
Real estate sales office	P		P	P	P	P	Y
Solar energy systems	P	P	P	P	P	P	Y
Wind energy systems	C	C	C	C	C	C	Y
Temporary buildings for storage of construction materials and equipment	P	P	P	P	P	P	Y
Temporary outdoor events	P/C		P/C	P/C			Y
Accessory use: General retail, Service business, Restaurant, Coffee shop, Tea house, Office, professional and general		C	C	C		C	Y
Daycare, home, family	P/C	P/C	P/C	P/C	P/C	P/C	Y
Daycare center in school or religious institution	P	P	P	P	C	C	
Mission house	P	P	P	P	P	P	Y
Portable shelter mission			C	C			Y
Lease of off-street parking facility accessory to residential use to non-tenants	P		P	P			Y
Vehicle access sales and service	C		C	C			Y

Downtown and Urban Districts							
	DC	UOR	DLMX (PROPOSED)	UMX	DR1	DR2	Supplemental Regulations
Outdoor eating area associated with food & beverage establishment	C		C	C		C	Y
Outdoor cooking operation	P/C	P/C	P/C	P/C	P/C	P/C	y
Outdoor display	P	P	P	P		C	Y
Outdoor storage	P	P	P	P			Y
Vending machine	C	C	C	C			Y
Walk-up service window	P/C		P/C	P/C			Y
Yard sales	P		P	P	P	P	Y

28.073 DOWNTOWN DISTRICT BUILDING FORMS.

	DC	UOR	DLMX	UMX	DR1	DR2
Single family detached			√		√	√
Two Unit and Three Flat			√		√	√
Two-Family Twin			√		√	√
Single-Family Attached		√	√		√	√
Small Multi-family	√	√	√	√	√	√
Large Multi-family	√	√	√	√	√	√
Courtyard Multi-family		√	√	√		√
Commercial Block	√	√	√	√		
Liner Building	√	√	√	√		
Parking Building	√	√	√	√		
Live/Work Building	√		√	√		
Residential Commercial Conversion	√	√	√	√		
Podium Building	√	√	√	√		
Flex Building		√	√	√		
Civic / Institutional Building	√	√	√	√	√	√