For a better quality of life.

HBA

HOME BUILDERS ASSOCIATION of METRO DENVER®

December 28, 2021

Analiese Hock
Principal City Planner
Community Planning & Development (CPD)

Brad Weinig
Director of Catalytic Partnerships
Department of Housing Stability (HOST)

Advisory Committee
Expanding Housing Affordability (EHA)

Dear Ms. Hock, Mr. Weinig and Members of the EHA Advisory Committee,

I am writing to share our thoughts, concerns and feedback regarding the City and County of Denver's proposal for mandatory affordable housing requirements.

These comments are being provided on behalf of the Home Builders Association (HBA) of Metro Denver. The HBA of Metro Denver represents nearly 500 homebuilders, developers, remodelers, architects, subcontractors, suppliers and service providers in the eight metro-area counties we serve.

In Denver, the HBA represents 17 different builders with over 600 registered permits just this year.

Our members have taken considerable time to meet with City staff and officials and review the proposed mandatory affordable housing policy released by the City. These comments are focused on the types of homes our members create, which are primarily for-sale, attached, duplex and single-family homes for families and others.

Our concerns fall into the following categories:

(1) The negative impacts to overall housing affordability and supply caused by shifting higher costs onto newly developed market rate units.

(2) The disincentive to build for-sale units due to new ownership units having higher percentages of required affordable units. This disincentive is exacerbated by Colorado's construction defect laws.

(3) The lack of meaningful incentives and/or trade-offs to help create much needed "missing middle" for-sale housing units in the ranges of 80-120% AMI and beyond.

Background:
It should be noted that the housing affordability crisis is due to a severe shortage of units and is reaching a breaking point in many markets across Colorado – including the City of Denver. May 2021 set a record-low number of listings in the Denver Metro Area at just 2,075 compared to the monthly average of 15,563. The 12-month increase in the price of the average single-family detached home sold grew by 29%, and the price of the average condominium grew by almost 12%. However, this is not a new problem in Colorado.

The average annual number of new homes built every year in Colorado since the 2008 financial crisis is 46% lower than the annual average in the eight years leading up to the recession. If Colorado were to return to the average housing population ratio between 1986 and 2008, it would require an additional 175,000 housing units across the state today. To close that gap and meet future population needs, Colorado will need to develop 54,190 new housing units annually over the next five years.

If Denver had more housing, and more housing types (something we fear this proposal does not adequately address), our affordability challenges would look much different. But currently and for the past 15 years, the amount of available housing supply within the City has fallen drastically short of the amount of demand. While Denver has enabled certain arterial and commercial corridor locations to obtain much higher densities primarily in the form of apartments and mixed-use buildings—the implementation of the Blueprint Denver Plan from 2002 rezoned large swathes of the City from residential multi-unit zoning, down to strictly single unit zoning. This prevented the creation of duplexes, row homes and other higher-density building forms. A review of the City's zone map shows the large inequities and inadequacies throughout the City, which are exacerbated by the shortage of multi-family housing stock.

We do not think Denver's housing policies should be done in a vacuum or without recognition of the State of Colorado's <u>construction defect laws which make it extremely costly and infeasible</u> to develop for-sale condominiums at scale. While we recognize the responsibility to resolve this issue rests largely upon the State Legislature, <u>Denver enacting a policy that puts for-sale condominium and attached housing construction at a further disadvantage will have additional unintended consequences</u> of further limiting this already dreadfully low, much needed housing type. We understand the City's proposal raises the income threshold for affordable units from 60% area median income (AMI) on for-rent projects to 80% AMI (on for-sale); however, ownership housing would have to provide a higher percentage of affordable units than for-rent housing—10% of total ownership units in typical cost markets and 12% of total ownership units in high-cost markets (or 15% and 18% of total units under Option 2 of 80% and 100% AMI). Having these higher percentages of units will undoubtedly serve as another disincentive toward building for sale/ownership housing units as the AMI trade-offs are negated by the increased percentage of units on a housing type that is already more expensive and riskier to build.

A fundamental concern with Denver's proposal is <u>the amount of cost burden that will shift onto market-rate units</u>, which under the City's proposal represents roughly 90% (or 88-92%) of all new housing units in the city. It cannot be stressed enough - this policy will increase in the cost of housing for roughly 90% of new housing units. Whether it is the higher prices of market rate units to make up for the added cost of constructing the percentage of below-market units, or the fee-in-lieu option, both options involve substantial cost increases which will be borne by buyers of market rate units. It is important to understand that for every dollar increase in costs, a builder needs to raise the price by more than that to cover the corresponding increases in commissions, closing costs, financing costs and other costs. Additionally, banks and investors expect builders to have some return on every dollar of cost.

Unfortunately, the City keeps talking about the need for affordable housing, while at the same time introducing new policies and requirements, such as net-zero construction, which drive up the cost of building housing without adequate offsets. These cost increases on market rate housing will drive people and families further from Denver and into other markets, often meaning people are living farther away from work and core services in order to find attainable homes.

This predicament points to the larger issue of how the City can actually leverage its collective resources to make more of an impact on affordable housing than the "inclusionary" approach of having market rate units cover the cost of the percentage of affordable units. The HBA provided input similar to this back in 2016-2017 when the City repealed the previous Inclusionary Housing Ordinance (IHO) and enacted the linkage fee requirement. We believe a far better way to increase affordability in a more equitable manner would be to <u>leverage a reliable funding source</u> such as the sales tax for housing or additional mills of property tax left over from De-Brucing, combined with other, more equitable funding sources (some already in existence), to purchase, partner and retrofit existing buildings into affordable housing, buy down rents and implement other large unit generation strategies rather than imposing new cost-raising requirements on an already record high level of building costs for new construction.

Before we lay out some of our recommendations, we want to remind City officials that <u>building new housing does not create affordability problems</u>. In actuality, building new housing (especially in a housing supply crisis) does quite the reverse. Building all types of housing creates a pipeline of supply and brings balance in the housing market that currently does not exist in Denver or the greater Metro Area. In contrast, the creation of new commercial space and primary jobs creates demand for housing and Denver and many other markets are at an imbalance of housing vs. the other drivers impacting affordability.

The HBA of Metro Denver recommends the City consider the following suggestions and improvements to the proposed policy:

(1) **For-sale linkage fee only.** For-sale housing should be subject to a reasonable linkage fee and not a percentage of affordable units, which provides a win-win of helping to create more of a significantly low segment of the Denver housing inventory (for-sale housing), while at the same time, generating additional revenue the city can use in innovative ways to lower housing costs.

    (a) In lieu of the above, we recommend reconsidering the 8-unit threshold for onsite affordable units. This policy will disincentivize the types of housing projects that are seeking to help the housing market from an affordability perspective. A single home scrape that replaces an existing affordable unit with a much more expensive unit can continue to do this at the linkage fee rate and not help the city's overall housing shortage, while an infill for-sale project of ~10, 20, or 30+ units would be faced with much higher costs due to having to provide the mandated percentage of onsite affordable units.

(b) Another option worth considering is lowering affordability percentages for sale/ownership projects to 5% of units and/or some staggered tiering of project size and percentage of units and AMI requirement that goes from 80% to 120% AMI (the missing middle), which would provide more opportunities to build this undersupplied type of housing.

(2) **Single-unit zoning.** The majority of the City that is zoned under a single unit zone district needs to be re-envisioned in ways that allow for a more contextual approach to infill housing redevelopment that provides opportunities for more housing density and supply, diversity of product types such as duplexes, row homes, garden court projects and other approaches that will lead toward more affordable and attainable housing options than the very constrained single unit zoning that covers so much of our City. It seems disingenuous to be enacting mandates on residential development while not addressing how the majority of the city is zoned in a way that discourages affordability. (Note: we support the use of quality infill design standards to help with the neighborhood feel and context elements while at the same time not unreasonably driving up costs)

(3) **Height incentives only apply to certain types of development.** The current proposal's height incentives apply mainly to certain contexts of the city with existing mixed-use or multi-unit zoning, predominantly along commercial and arterial/collector corridors or the inner city. A simple look at the zoning map shows how limited in size and area these areas are and how large majorities of Council districts are predominantly zoned single unit. Furthermore, the height incentives (3 to 4; 5 to 7; 8 to 12; 12 to 16; 16 to 20) are skewed toward multi-family apartment building forms and offer little to nothing toward the building forms where for-sale product is occurring—duplexes, row houses and townhomes. We encourage the City/EHA team to explore possible incentives for building forms under 3-stories that ensure important segments of the housing market are not left out of any meaningful density bonus or incentive structure.

(4) **Other incentives.** Offering a permit fee reduction exclusively to affordable units and not all units within a development is a missed opportunity to provide a more meaningful balance and trade off when considering the significant cost increases the policy creates. While the parking reduction does not do enough to move the needle from a project feasibility standpoint, a more meaningful permit fee reduction, or other financial incentive(s), would help provide more balance, recognizing that building costs for housing are at an all-time high and constantly increasing and piling up.

(5) **Incentives for fee-in-lieu.** Given the extremely high and cost prohibitive nature of the fee in-lieu option, it doesn't make sense to disqualify a fee in-lieu project from benefiting from some of the potential benefits of incentives such as permit fee reductions and/or parking reductions. The incentives won't be near enough to offset the cost increases, but this double whammy doesn't make sense.

(6) **Flexibility and accountability.** How is this policy expected to change as the housing market evolves or outside forces or factors impact the Denver housing market? We never saw regular reporting or high levels of administrative accountability the last time

Denver had an IHO and the data we've seen from other inclusionary markets does not indicate a reduction in housing costs or a meaningful increase in affordable units. We believe the city should incorporate meaningful standards for reporting, tracking metrics and continual engagement and dialogue of not only the City Council and the Planning Board but also the stakeholders tasked with alleviating the current housing shortage.

In summary, while we recognize why the City and County of Denver is considering a proposal like this, we urge extreme caution and recommend City officials work earnestly with the residential development community to avoid unintended consequences and provide adequate incentives and support. The increased costs from this proposal will be significant, so it is imperative the city do everything possible to minimize these impacts, recognizing that they will be shouldered by roughly 90% of the new market-rate units created under this proposed ordinance.

The HBA of Metro Denver welcomes and encourages additional opportunities to participate in this policy dialogue and we hope revisions from the first round of formal public input will take into account this letter and others received by the development community. While there are many ways to approach affordable housing, an inclusionary ordinance that targets new development needs collaboration with the development community, so it does not end up doing more harm than good.

Thank you for the opportunity to continue to participate and provide meaningful stakeholder input. Please don't hesitate to contact the HBA with questions or for further discussions.

Sincerely,

Ted Leighty
Chief Executive Officer
Home Builders Association of Metro Denver