

12/1 Item 56 - Compatibility on Corridors
CM Vela Amendment 3 - V1
Waiver of Height Limitations

Amend § 25-2-769.04 to add the following

(G) The director or the Land Use Commission may waive the height limitation for a corridor site for a structure or a portion of the structure up to the maximum building height allowed by the base zoning district if the director or the Land Use Commission determines that a waiver is appropriate and will not harm the surrounding area. The director's or the Land Use Commission's determination will consider the following factors:

- (1) Whether owners of the triggering properties for a corridor site would object to waiving height limitations;
- (2) Whether owners of the triggering properties for a corridor site have or seek to enter into an agreement with a corridor site owner for community benefits in exchange for waiver of height limitations;
- (3) The impact of additional building height on a triggering property if only a portion of the property is situated within the triggering distance of a corridor site;
- (4) The impact of additional building height on a triggering property with unique site conditions;
- (5) The impact of additional building height on triggering properties if the corridor site has unique site conditions;
- (6) The impact of height limitations on the number of affordable housing units that can be built on a corridor site; and
- (7) Any other unique or atypical characteristics of the corridor site, the triggering properties, and the surrounding area that would materially affect the impact of waiving height limitations for a structure or portion of the structure on a corridor site.

Reasoning:

This amendment establishes a framework for waiving height limitations in unique or unusual situations where the typical concerns about height are not present, where the surrounding community is in favor and does not object to additional height, or where the community desires to gain community benefits or more affordable housing in exchange for additional height. A property may trigger height limitations even if one foot of empty lot is over the border.

Currently, variances/waivers generally require approval of the Board of Adjustment and mandates the applicant prove hardship, except for certain DMU zoned properties or properties where a structure already exists between the proposed structure and the triggering property. As a matter of code, we cannot always predict what exceptions are necessary. We need a process to allow common sense waivers of compatibility where appropriate, but with clear guidelines on the appropriate factors to be considered.