

MEMORANDUM

To: Development Services Staff
From: Leah Guerand, AICP for Tina Axelrad, Zoning Administrator
Date: May 19, 2022
Re: **Denver Zoning Code (DZC) Clarification — Rule of Measurement —
DZC § 13.1.3.3.B.5.c.i – Limits on the Height Exception for Multi-Story Structures
Containing Vehicle Parking**

Summary

Section 13.1.3.3.B.5 of the Denver Zoning Code provides a height exception for multi-story structures containing both vehicle parking and at least one primary Street Level active use other than Garage Parking. More specifically, DZC Section 13.1.3.3.B.5.c.i. permits such structures to exceed the maximum building height in stories for portions of the structure containing structured parking (the “Parking Structure Story height exception”). However, the Parking Structure Story height exception can only be used *“if no design standard alternatives are used to meet any of the required Building Form Standards.”* DZC, Section 13.1.3.3.B.5.c.i.

This memo clarifies a project **cannot** utilize the Parking Structure height exception in Section 13.1.3.3.B.5.c.i if the project also uses any design standard alternative available in **either** the Underlying Zone District **or** an applicable Design Overlay District.

Note the Denver Zoning Code distinguishes between a building form or design standard “alternative” and a building form or design standard “exception.” The Parking Structure Story height exception at issue in this clarification references only the term “design alternative”; therefore, a project’s use of an “exception” versus an “alternative” will not prevent use of the Parking Structure Story height exception.

For example, DZC Section 9.4.5.11.G. – Design Standard Alternatives and Exceptions for the DO-7 Zone District (River North Design Overlay), contains the following design standard alternatives to required Building Form Standards:

- a. §9.4.5.11.G.1: Allowance for non-building wall alternatives to meet the required Build-to standard in the DO-7 District;
- b. §9.4.5.11.G.2: Allowance to use an integrated façade design as an alternative to compliance with the Limitation on Visible Parking Above Street Level standard in the DO-7 District;
- c. §9.4.5.11.G.3: Allowance to provide Private Open Space as an alternative to compliance with the Incremental Mass Reduction standard in the DO-7 Zone District; and

- d. §9.4.5.11.G.4: Allowance for non-window alternatives to meet the Street Level Transparency standard in the DO-7 District.

If any of the DO-7 design standard alternatives described above are utilized in a building's design, then the subject structure **cannot** also take advantage of the Parking Structure Story height exception stated in Section 13.1.3.3.B.5 to exceed the maximum height in stories standard, even if the structure contains vehicle parking and at least one other use, or the structure contains vehicle parking.

Clarification

This memo clarifies that the limiting condition stated in DZC, Section 13.1.3.3.B.5.c.i that prohibits use of the Parking Structure Story height exception if a "design standard alternative" is "used to meet any of the required Building Form Standards" does not create a distinction with legal effect between a "design standard alternative" available to meet required Building Form standards in the Underlying Zone District **or** in an applicable Design Overlay zone district. The use of a design alternative available in either the underlying zone district or an applicable design overlay zone district will preclude the project from also taking advantage of the Parking Structure Story height exception.

Accordingly, any development seeking to use the Parking Structure Story height exception allowed under DZC, Section 13.1.3.3.B.5, **cannot** also use a design standard alternative otherwise allowed within the Underlying Zone District or an applicable Design Overlay District.

If you have further questions, please contact your team supervisor or Zoning Administration.