



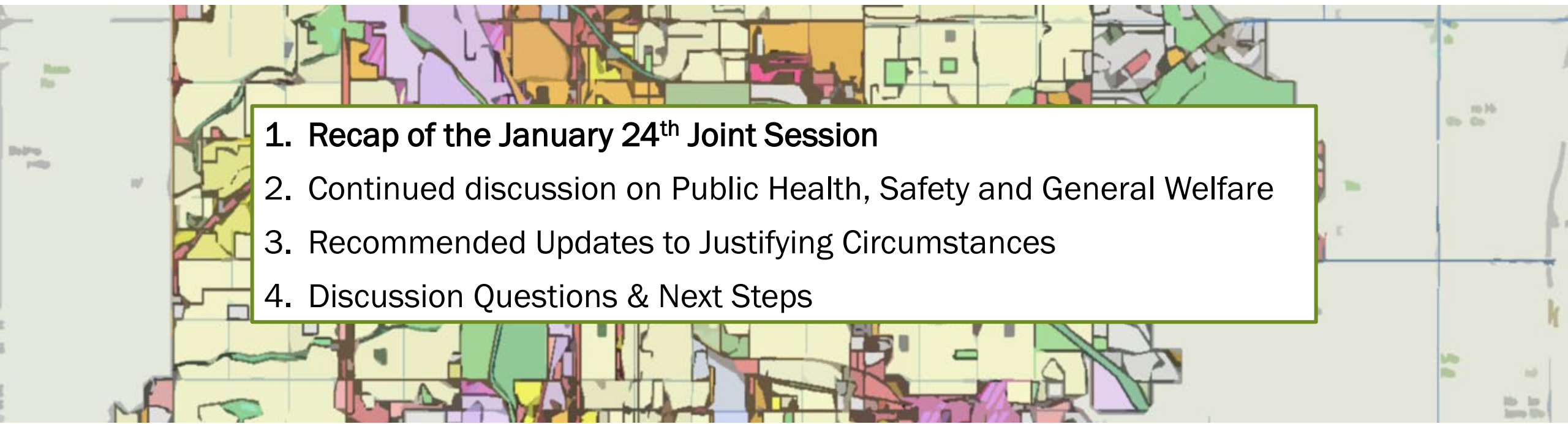
DENVER

**COMMUNITY PLANNING
& DEVELOPMENT**

Advancing Equity in Rezoning
City Council & Planning Board Joint Session
Rezoning Review Criteria Discussion

April 16, 2024

Agenda

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1. Recap of the January 24th Joint Session
 2. Continued discussion on Public Health, Safety and General Welfare
 3. Recommended Updates to Justifying Circumstances
 4. Discussion Questions & Next Steps

Recap from the January Work Session

General agreement:

- Remove the **Uniformity of District Regulations** Criterion
- Remove the **Denver Zoning Code Intent Statement** Criterion
- Move the option to approve a rezoning for **land for a community need not anticipated at the time of plan adoption** out of the consistency with plan guidance criterion

Less clear consensus on:

- How to address the Public Health, Safety, and General Welfare language



Current Criteria:


12.4.10.7 General review criteria Applicable to All Zone Map Amendments

- Consistency with Adopted Plans
- Uniformity of District Regulations and Restrictions
- Public Health, Safety and General Welfare

12.4.10.8 Additional Review Criteria for Non-Legislative Rezoning

- Justifying Circumstances
- Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

Agenda

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What We Heard in January

Considerations for the Public Health, Safety, and General Welfare criterion

- “Public health, safety and general welfare” is language dating from the 1920s
 - Was used as rationale for cities to plan and regulate land use
 - Was not intended to be used as a rezoning review criteria
 - Historically it has been used as racist and exclusionary policy
- Removing it would follow best practice to avoid ambiguous criteria
 - Improves transparency for community members and developers
- Removing it would focus evaluation on the adopted plans, which have robust outreach and engagement processes
- Concerns from public comment can be tied to plan guidance when making decisions



What Else We Heard in January

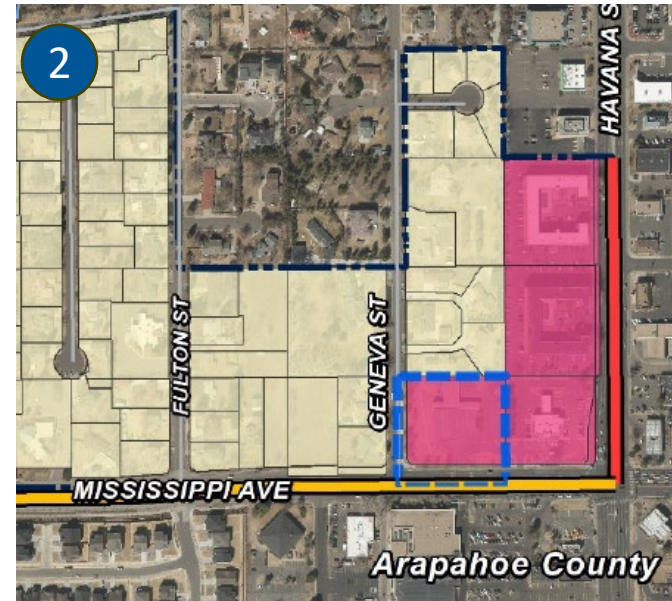
How to address Public Health, Safety, and General Welfare

- Comments from previous City Council and Planning Board Joint Session:
 - Planning Board and City Council are not a “rubber stamp” after CPD evaluation
 - We need to rework the Public Health, Safety and General Welfare Language
 - Need the ability to make a decision or recommendation based on:
 - Information from public comment, or
 - Changes since the adoption of applicable city plans.
 - Desire to focus decisions on equity



Using Adopted Plans to Address Issues w/PHSGW Criterion

- The following slides describe recent proposed rezonings where Councilmembers used the current public health, safety and general welfare criterion to make a case for denial.
- Let's explore how using adopted plans can reach the same conclusions.



Example 1: Commercial Uses within Residential Area

- **What was their existing zoning?**
 - Custom zoning allowing only a dentist office
- **What did the applicants propose?**
 - 2-story zoning that allows a broad range of commercial and residential uses
- **What feedback did Planning Board and City Council hear from community members?**
 - Do not want to allow drive-thru uses in a residential neighborhood



City Council Evaluation

- **What was the outcome?**
 - City Council unanimously denied the rezoning
- **What was City Council's rationale?**
 - Drive-thru forms/uses in a residential neighborhood are not “consistent with Public Health, Safety and General Welfare of the community” and incompatible
 - Councilmembers suggested a similar zone district that doesn't allow drive-thrus would have been more appropriate at this location



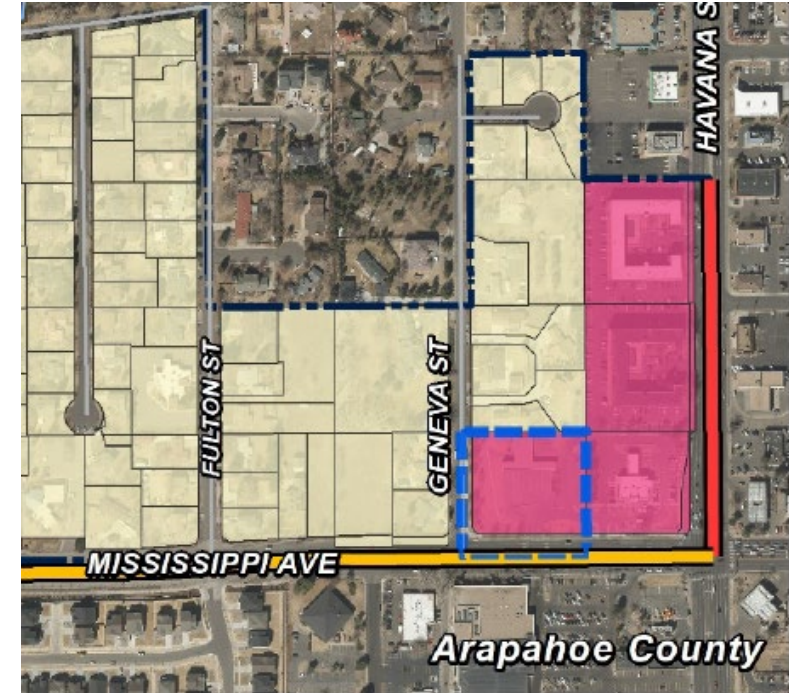
Using Adopted Plans to Reach Similar Conclusion

- **Blueprint Denver:** Land use guidance calls for “Neighborhood-serving retail” and residential uses (p. 148)
 - **Alternative Analysis:** Proposed zone district allows higher intensity uses that are not neighborhood-serving
- **Blueprint Denver Street Type:** Residential Arterial (p. 160) serves primarily residential, schools, civic uses and small retail nodes
 - **Alternative Analysis:** Residential Arterial is not an appropriate street type to serve auto-oriented commercial uses



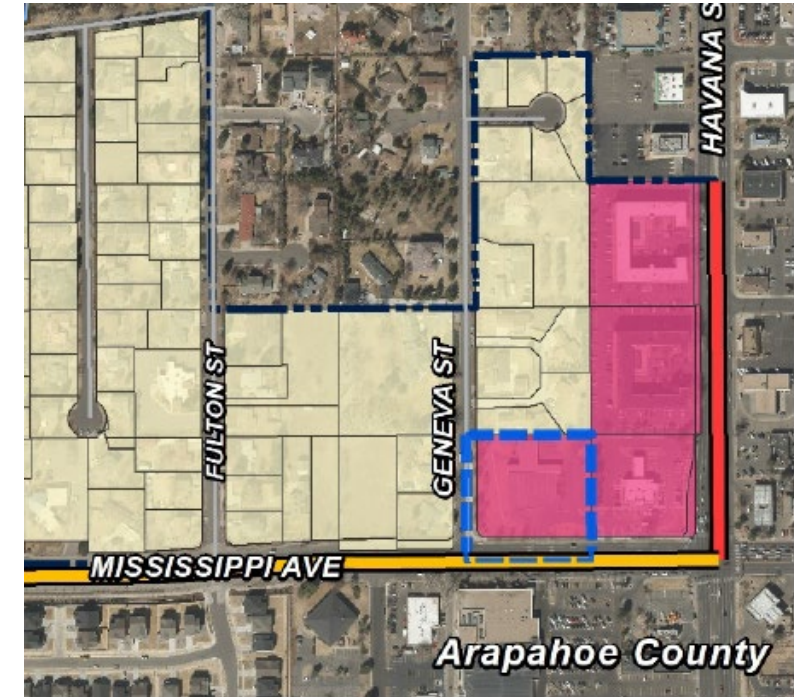
Example 2: Single Use to Broad Mix of Uses

- **What was their existing zoning?**
 - Custom zoning allowing only a single commercial use (bank drive-through facility)
- **What did the applicants propose?**
 - A mixed-use zone district (allowing wide range commercial and residential uses)
- **What feedback did Planning Board and City Council hear from community members?**
 - Concerns about air quality and traffic impacts from a proposed gas station at the site



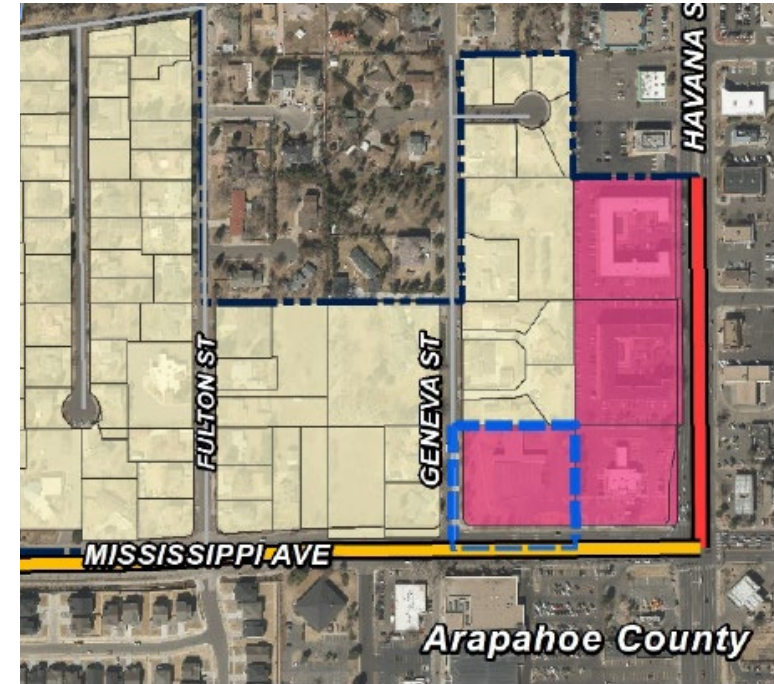
City Council Evaluation

- **What was the outcome?**
 - Majority of Council Members voted to deny the rezoning
- **What was the City Council's rationale?**
 - Councilmembers argued that rezoning to a district that allows fuel stations does not “further the Public Health, Safety and General Welfare of the community.”



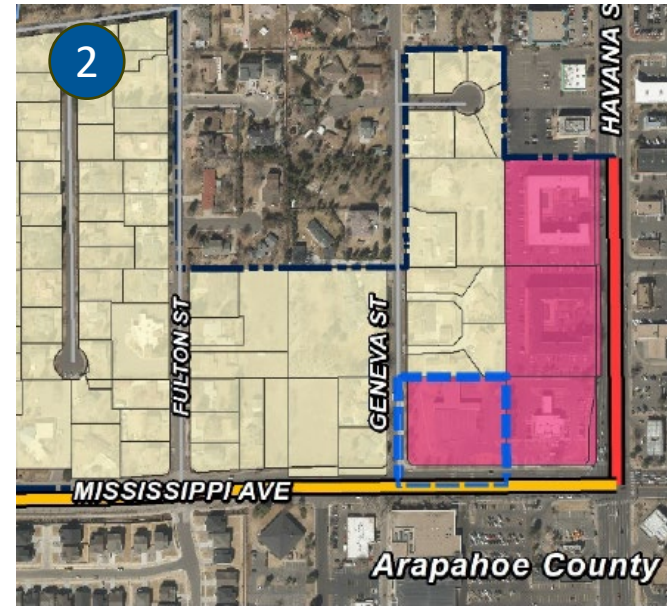
Using Adopted Plans to Reach Similar Conclusion

- **Blueprint Goal 6 – Climate Change:** “Guide growth to maintain connections to the outdoors, respond to climate change and protect our environment and natural resources.” (p. 34)
 - **Alternative Analysis:** Redevelopment that allows auto-oriented uses does not help the city achieve climate-related goals, such as encouraging housing near high-capacity transit
- **Blueprint Land Use Policy 4:** “Ensure an active and pedestrian friendly environment that provides a true mixed-use character in centers and corridors” (p. 103)
 - **Alternative Analysis:** Zone districts that allow auto-oriented building placement and uses do not contribute to a pedestrian-friendly environment in this location, which is identified as a Community Corridor
 - **Conclusion:** Proposed rezoning is not consistent with adopted plan guidance



Example Cases Summary

- The zoning code requires staff to make a recommendation
- Staff try to include all relevant plan guidance in staff reports that are useful for evaluating rezoning requests
- This exercise was to examine how decision-makers could make similar arguments without citing the problematic “public health, safety, and general welfare” language



Other ideas we heard about how to replace public health, safety, and general welfare

- Reflect Denver's commitment to equity
- Reiterate Denver's commitment to addressing the climate crisis



Both of these, and other vision elements, are advanced by Denver's adopted plans...

Blueprint Equity Concepts

Improving Access to Opportunity

creating more equitable access to quality-of-life amenities, health and quality education.

Reducing Vulnerability to Displacement

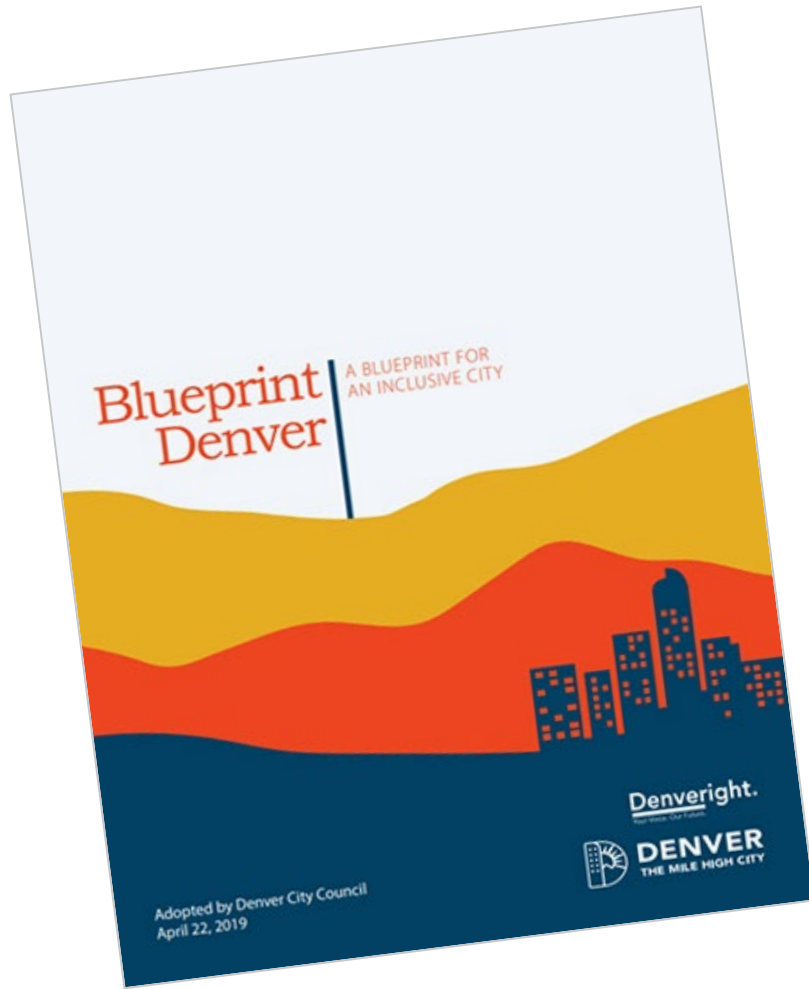
stabilizing residents and businesses who are vulnerable to involuntary displacement due to increasing property values and rents.

Expanding Housing and Jobs Diversity

providing a better and more inclusive range of housing and employment options in all neighborhoods.



Blueprint Equity Considerations



The equity concepts should guide implementation decisions

- Consider current conditions
- Consider historical inequities
- Consider potential benefits and mitigate impacts

Blueprint Equity Considerations



Equity Concepts

- What key equity concepts and policies will potentially be advanced by approval of the rezoning?

Improving Access to Opportunity

- Would the rezoning enable the development of amenities that could improve access to opportunity measurements?

Reducing Vulnerability to Displacement

- Could the rezoning result in direct displacement of existing residents?

Expanding Housing and Jobs Diversity

- Would the rezoning result in the allowance of additional housing types?

Blueprint Denver and Comprehensive Plan Climate Considerations



Comprehensive Plan 2040: Environmentally Resilient Vision Element

- Denver is committed to grow more sustainably and adapt to and mitigate the effects of climate change.
- This includes promoting sustainable development patterns and restoring valuable natural habitat. (p. 52)

Blueprint Denver and Comprehensive Plan Climate Considerations

Quality-of-Life Infrastructure



Land Use and
Built Form

Mobility



Blueprint Denver encourages:

- efficient land use and infrastructure improvements,
- promotes quality of life for the community and environment, and
- sustainable building practices. (p. 77)

Blueprint Denver and Comprehensive Plan Climate Considerations



Questions to consider during evaluation:

- Does the rezoning help Denver grow more sustainably?
- Does the rezoning promote environmental justice?

Quality-of-Life Infrastructure



Mobility



Land Use and Built Form



DISCUSSION ON CONSIDERING PLAN GUIDANCE

Denver Rezoning Criteria Discussion

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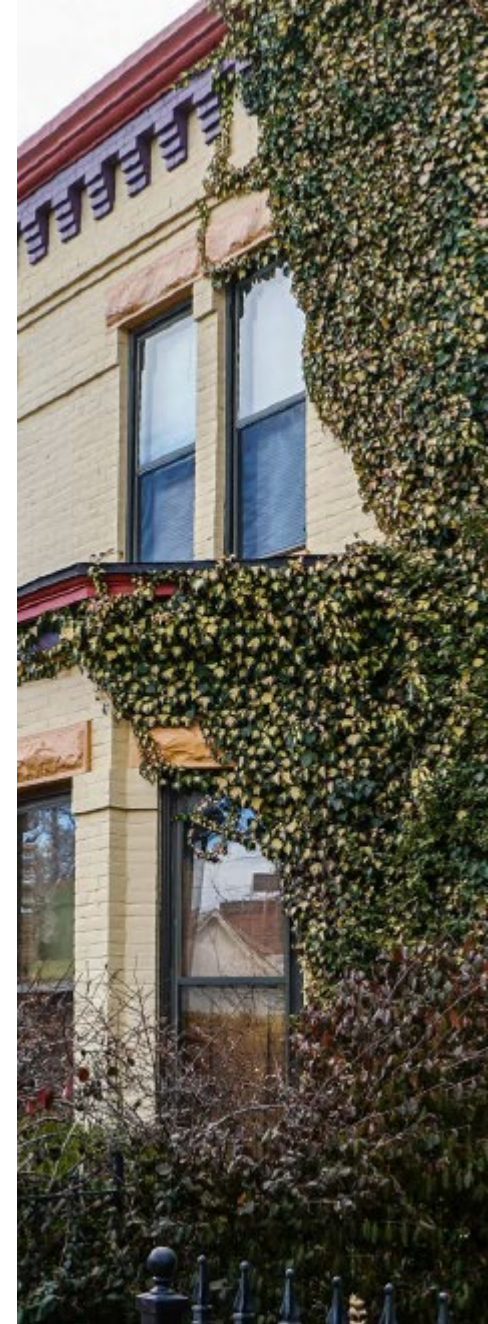
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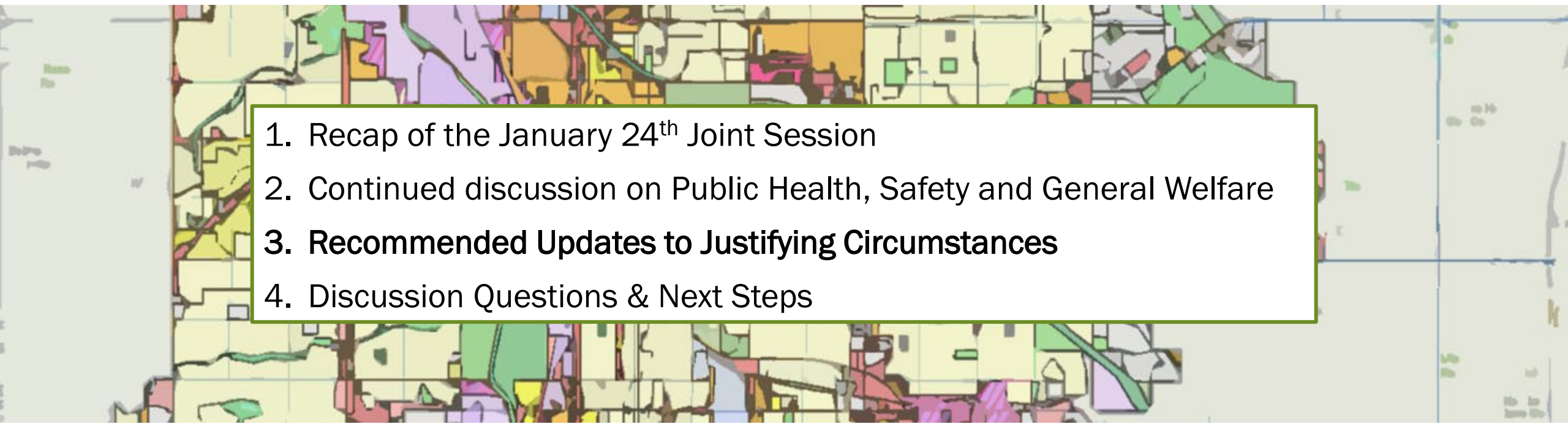
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Agenda

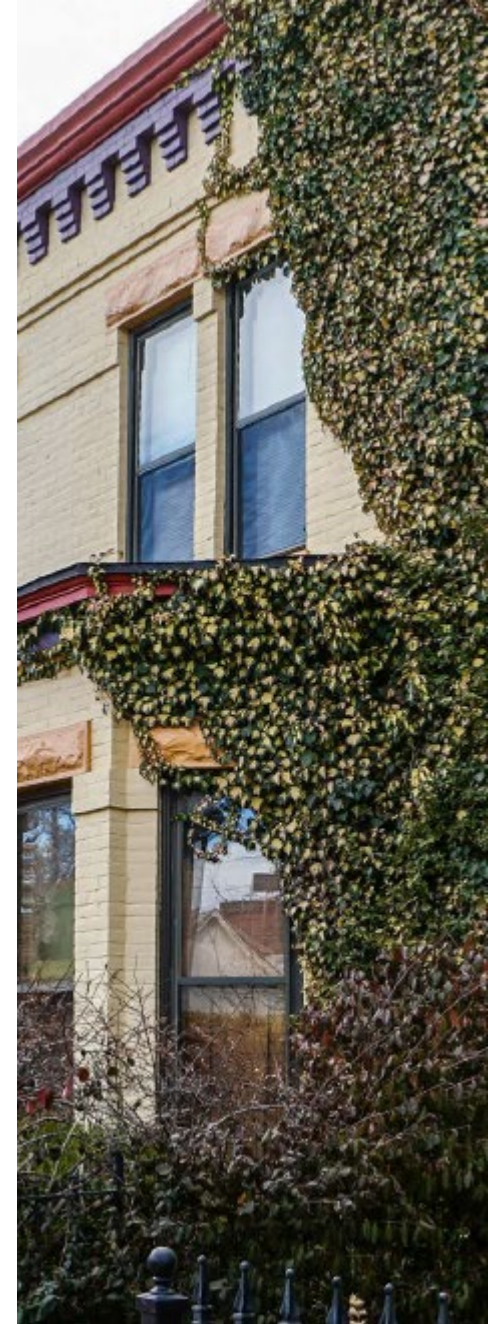
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Existing Justifying Circumstances:

****must be met in addition to all other criteria**

One of the following circumstances exists:

1. The existing zoning was the result of an error;
2. The existing zoning was based on a mistake of fact;
3. The existing zoning of the land failed to take into account the natural characteristics of the land
4. There has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:
 - a. Changed or changing conditions in a particular area, or in the city generally; or,
 - b. A City adopted plan; or
 - c. Property retained Former Chapter 59 zoning.
5. Establishing an Overlay District.



Justifying Circumstances Proposal Overview:

One Big Change:

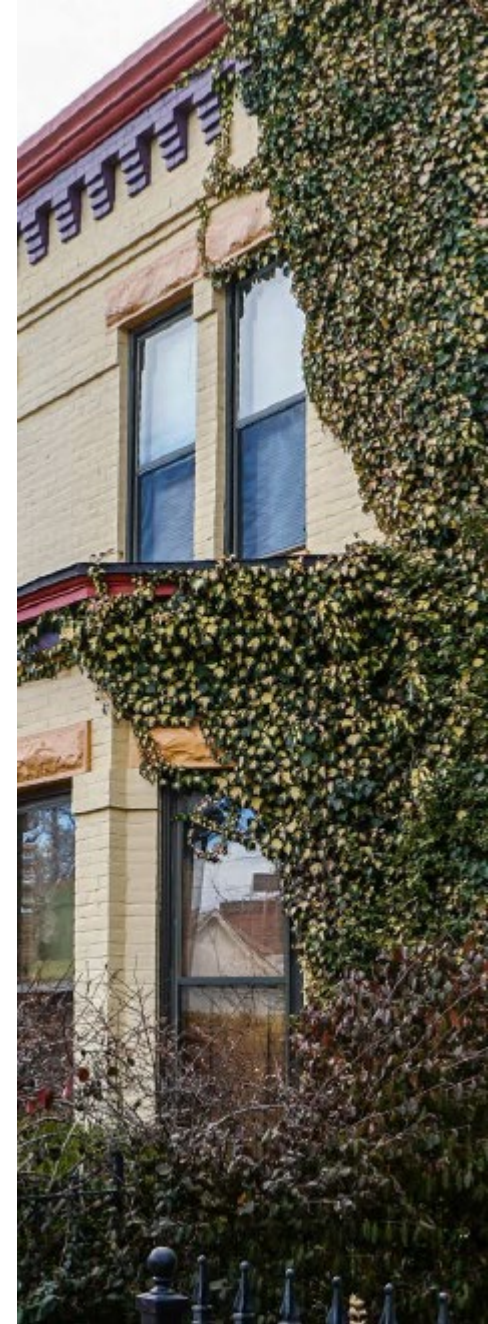
Rezoning must be consistent with adopted plans

OR

Meet a justifying circumstance

Other Adjustments:

Retain, **Move**, **Remove** examples of
Justifying Circumstances

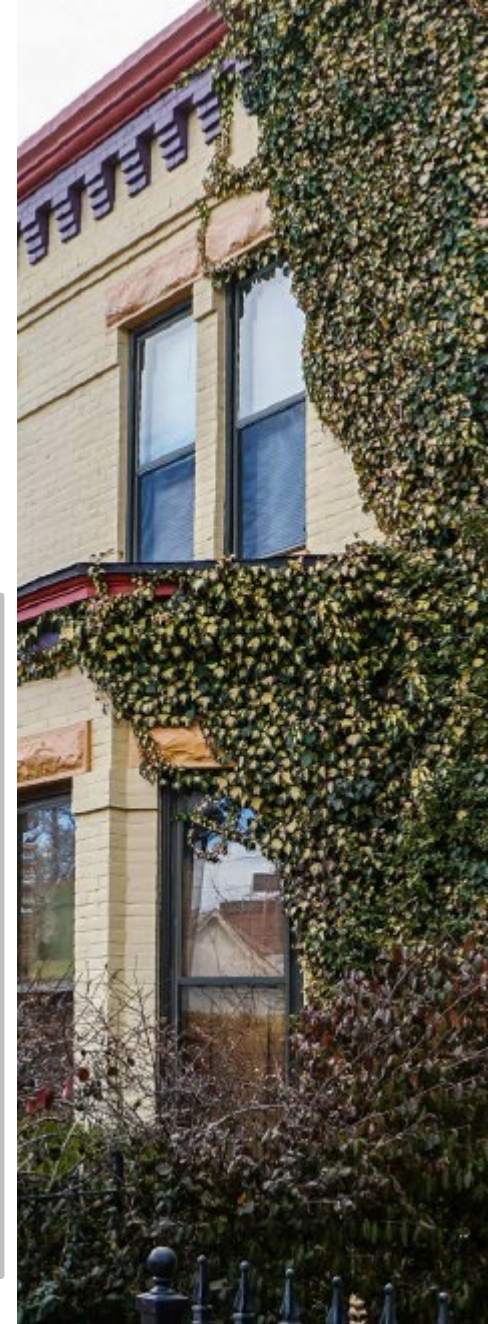
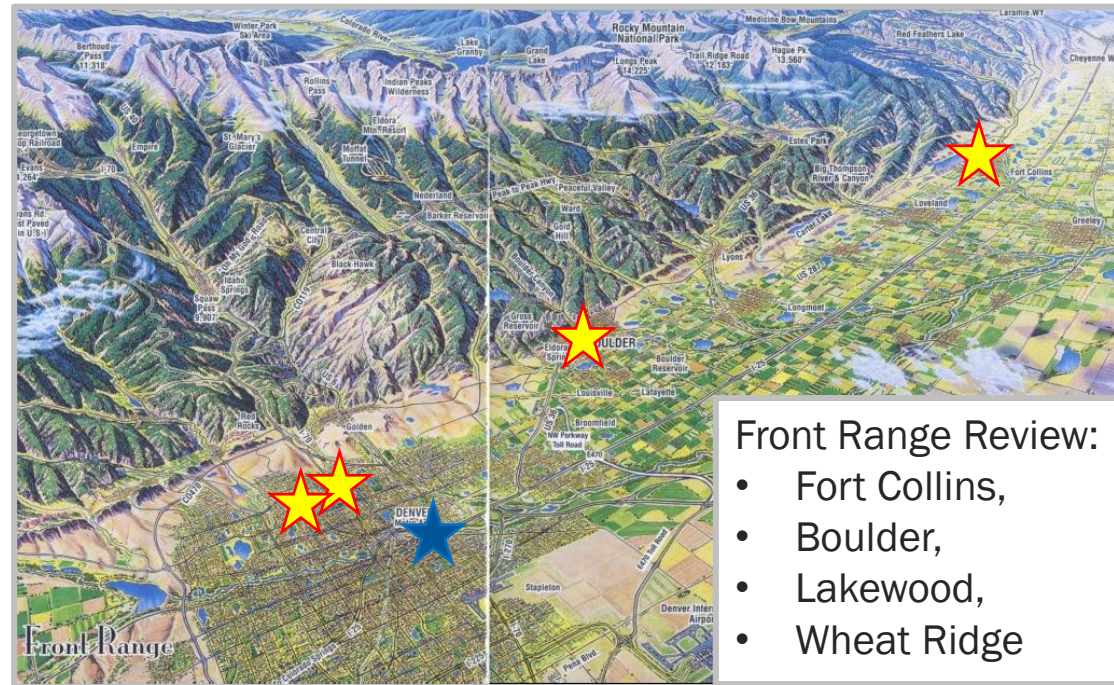


Justifying Circumstances Proposal Overview:

Consistent with adopted plans **OR** Meet a justifying circumstance

Why use an “or” approach?

1. To provide a community need not addressed in a plan
2. Implementing plans through rezoning shouldn't require changed or changing conditions
3. Other peer and Colorado cities use this approach



Justifying Circumstances Proposal Summary:

Make the following Adjustments to Justifying Circumstances

Retain justifying circumstances for:

- Error or mistake
- Changed or changing conditions



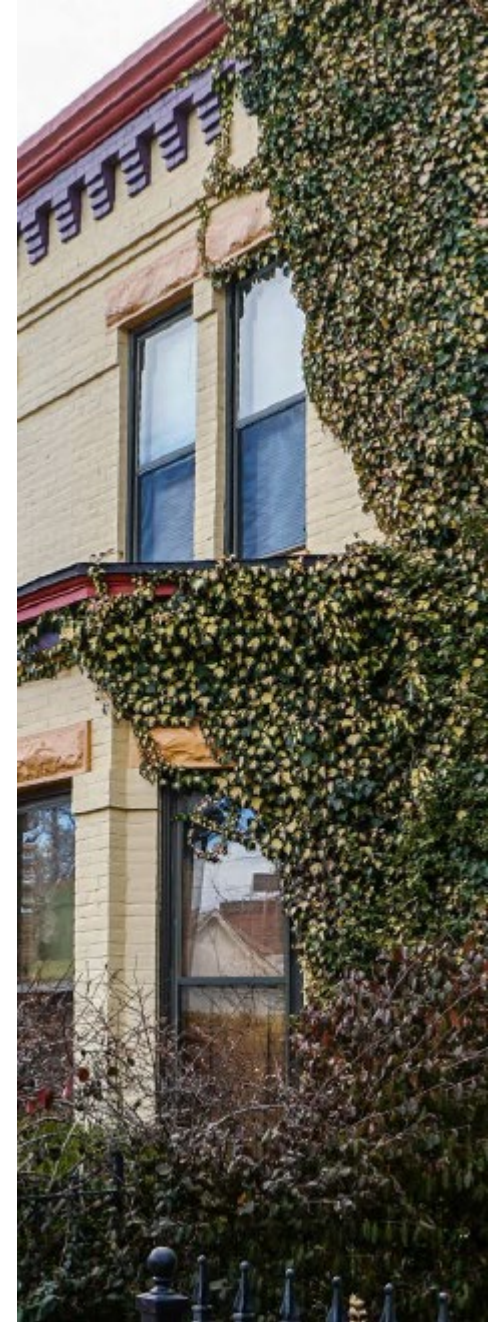
Move justifying circumstance for:

- Community need not anticipated at the time of plan adoption



Remove justifying circumstances for:

- Land retaining Former Chapter 59 zoning
- Overlay Districts
- Unique Land Characteristics



Proposed Approach

Review Criterion for Legislative Rezoning

A. Consistency with Adopted plans

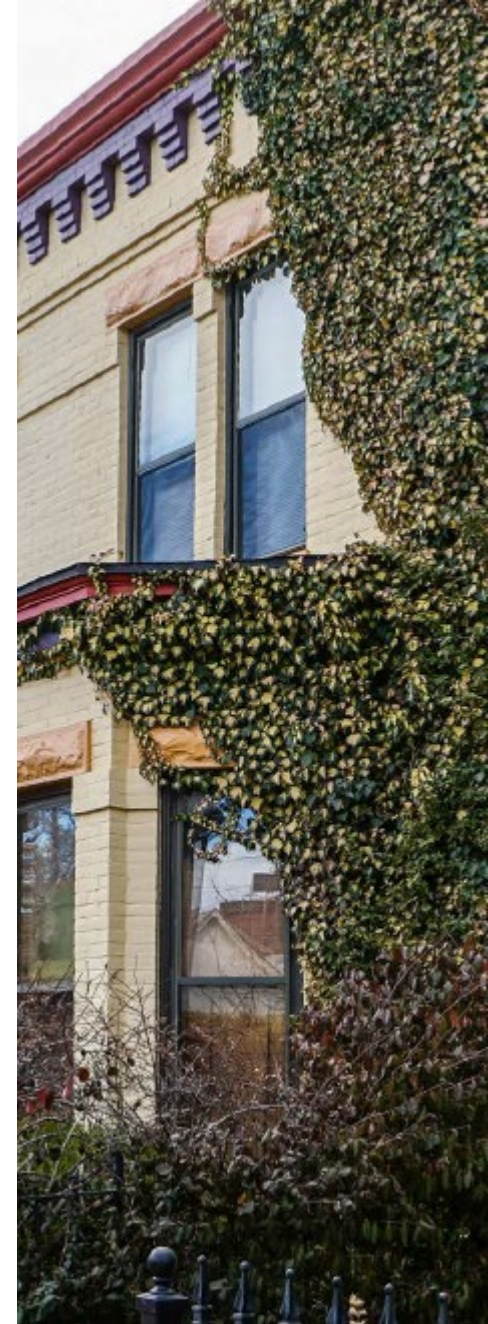
Review Criteria for Non-Legislative Rezoning

A. Consistency with Adopted plans


OR

B. A justifying circumstance exists:

1. Error or mistake
2. Changed or changing conditions
3. Community need not anticipated in plan

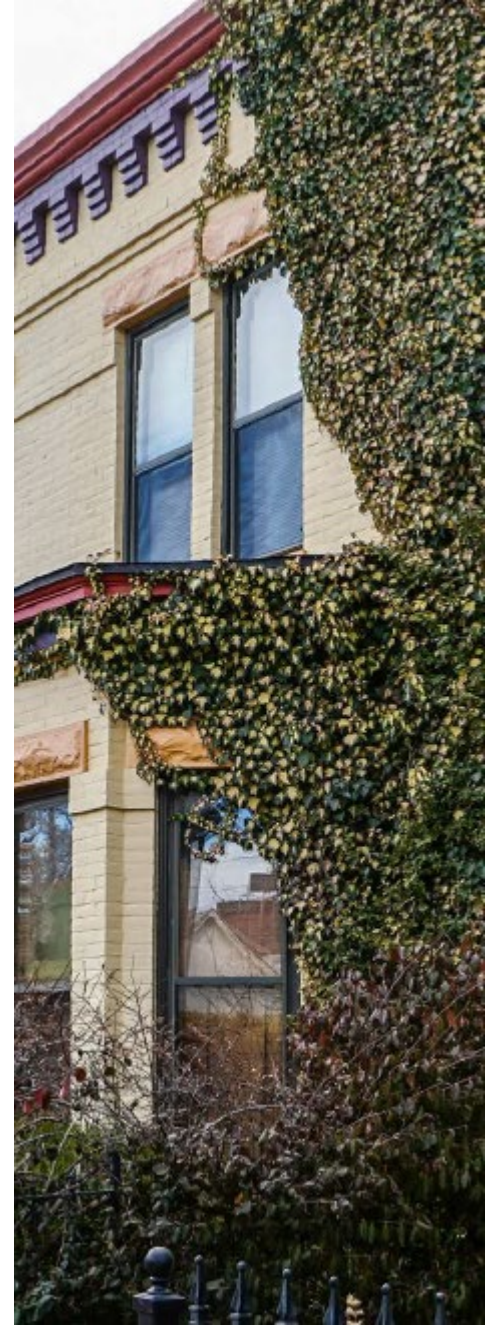


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DISCUSSION ON JUSTIFYING CIRCUMSTANCES

1. What else should we consider with this approach?



NEXT STEPS

- Looking forward to a 3rd work session this summer focused on:
 - Follow-up from today's meeting
 - Recommended approach for incorporating equity and public input

