



TO: Land Use, Transportation and Infrastructure Committee
FROM: Brandon Shaver, Senior City Planner
DATE: December 12, 2024
RE: Denver Zoning Code – Advancing Equity in Rezoning Text Amendment

Staff Report and Recommendation

Based on the review criteria for text amendments set forth in the Denver Zoning Code (DZC), Section 12.4.11 (Text Amendment), Community Planning and Development (CPD) staff recommends approval of a text amendment to update the map amendment (rezoning) process and review criteria. A marked up version of the proposed text amendment is available on the Community Planning and Development [website](http://www.denvergov.org/CPD) and is also included as a supplement to this staff report.

Project Purpose & Summary

In late 2021, Community Planning and Development kicked off a regulatory project named Advancing Equity in Rezoning (AEIR) to refresh the rezoning process to better incorporate Denver's values and priorities as articulated in [Comprehensive Plan 2040](#) and [Blueprint Denver](#), both adopted in 2019. The project was aimed at improving transparency and access to the rezoning process, consider the impact of rezonings on neighboring residents and properties, and explore how rezonings can lead to equitable outcomes that better serve all community members.

After selecting a diverse task force with a range of interests and experiences with the rezoning process, city staff began convening the group to identify and analyze issues, evaluate alternatives, and develop a preferred approach and necessary tools before drafting a text amendment for public review. In addition to the task force, the project team engaged with the public, Planning Board, City Council and other key stakeholders throughout the course of the project to take their feedback into consideration. After nearly 3 years of engagement and 15 task force meetings, the AEIR project team is proposing updates to the Denver Zoning Code to revise the rezoning review criteria to remove outdated language and increase clarity and create more accessible and clear opportunities for the public to engage and get involved in the rezoning process. The project is also proposing updates to CPD's standard operating procedures to improve public-facing materials, rezoning webpages, build upon the equity analysis pilot and create templates for voluntary commitments applicants can agree to at the time of rezoning to mitigate potential equity impacts of a rezoning.

Proposed Text Amendment Changes

The AEIR text amendment proposes the following changes to the Denver Zoning Code (DZC):

- **Posted Notice of Receipt of Application:** Applicant-posted notice of rezonings currently occurs 15 days prior to a Planning Board Public Hearing and 21 days prior to the City Council Public Hearing. This text amendment would require an additional posted notice no later than 10 days after receipt of a complete application. Posted notices at the receipt of application must remain in place for at least 15 days, or until they are replaced by posted notice of a public hearing, whichever is shorter. This provision accounts for rezoning applications that are complete and

ready to move into the adoption phase and acknowledges potential challenges of keeping posted signs on a subject property for extended periods of time, including changes in weather and exposure to other elements.

- **Written Notice of Receipt of Application and Planning Board Public Hearing:** Currently, CPD mails written notice of receipt of rezoning applications and Planning Board hearings to the following stakeholders:
 - city council members in whose district the subject property is located,
 - at-large city council members,
 - Registered Neighborhood Organizations (RNOs) within 200 feet of the proposed rezoning, and
 - property owners within 200 feet of the proposed rezoning.

This text amendment would expand that written notice to tenants of real property, including residents of apartments and rented homes and businesses in leased commercial units or structures. All mailed notices required for rezonings will be sent to the most recent rental unit addresses available to the city, which are typically updated annually. This change will help ensure more stakeholders are aware of proposed changes to zoning in their neighborhood, or to the properties where they live or do business.

- **Reduced Timeline for Referral and Examination of Application:** Currently, city agencies that might be affected by a proposed rezoning are given a 21-day referral period to transmit comments and recommendations to CPD. This text amendment proposes to reduce the referral period to 14 days, given advances in technology and to build efficiency in the rezoning timeline for customers.
- **Extent of Written Notice of Receipt of Application and Planning Board Public Hearing:** Currently, CPD provides written informational notices to property owners within 200 feet of the proposed zoning. To align with a 2023 voter-approved City Charter change related to protest petitions, this text amendment would clarify that only property owners and tenants within 200 feet of a proposed rezoning **and** within the City and County of Denver will receive written notice from CPD.

Maintaining current practice, CPD staff will continue to encourage applicants to engage with neighboring jurisdictions. Members of the public outside the City and County of Denver will remain welcome to participate in the rezoning process, provide testimony at public hearings and submit comments which are attached to the application and provided for Planning Board and City Council to consider.

- **Extent of Effect of Protest to Amendment:** The Denver Zoning Code currently allows property owners within 200 feet of a proposed rezoning to sign a protest petition to an official map amendment, even if they do not live within City and County of Denver limits. Following a 2023 voter-approved amendment, the City Charter allows only property owners within 200 feet of a proposed rezoning **and** within the City and County of Denver to sign a protest petition. Therefore, this text amendment would align the regulations for protest petitions within the Denver Zoning Code to those found in the City Charter by referencing the applicable charter section 3.2.9 and clarifying that only owners within 200 feet of a proposed rezoning and located within the City and County of Denver can sign a protest petition to an official map amendment.

- **Revisions to the Rezoning Review Criteria:** Currently, the Denver Zoning Code sets forth three review criteria applicable to all rezonings and an additional two review criteria for non-legislative rezonings, as detailed below:
 - General Review Criteria Applicable to All Zone Map Amendments
 - Consistency with Adopted Plans - The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of the adoption of the City's plan.
 - Uniformity of District Regulations and Restrictions - The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.
 - Public Health, Safety and General Welfare - The proposed official map amendment furthers the public health, safety and general welfare of the City.
 - Additional Review Criteria for Non-Legislative Rezonings
 - Justifying Circumstances - One of the following circumstances exists:
 - The existing zoning of the land was the result of an error;
 - The existing zoning of the land was based on a mistake of fact;
 - The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage;
 - Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:
 - Changed or changing conditions in a particular area, or in the city generally;
 - A City adopted plan; or
 - That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning
 - It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.
 - Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district.

The following proposed changes to the rezoning review criteria were developed with a focus on removing outdated, unnecessary language and increasing clarity.

- **Retain Consistency with Adopted Plans Criterion:** As the most extensive and equitable engagement occurs during the planning process, adopted plans are the best tool for expressing

the vision of a community, providing guidance related to rezonings and identifying opportunities for equitable outcomes.

- **Retain Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements Criterion:** With a large number of zone districts contained in the Denver Zoning Code, this criterion is helpful in evaluating if a proposed zone district is appropriate for a specific location.
- **Clarify Existing Extraordinary Community Need Provision:** In the event of an unanticipated community need that was identified at the time of the adoption of the city’s plan, it is important to retain the ability to approve a rezoning that provides land for that purpose. This text amendment will separate this provision from being within the Consistency with Adopted Plans criterion as an “or” statement and clarify by updating the language and making it an exception to Consistency with Adopted Plans. This proposed change ensures that plan consistency is highlighted as the most important criterion and exceptions to it are rare and extraordinary in nature and occurrence.
- **Update Public Health, Safety and General Welfare Criterion:** This language came from early land use regulations and court decisions, and versions of it remain in many zoning codes throughout the United States. However, more recent examination of historical zoning practices have highlighted how this language was used to defend exclusionary and racist use of these regulations. Therefore, this text amendment proposes to move away from problematic language by rewriting the criterion in a way that allows for a similar analysis and evaluation.
- **Remove Uniformity of District Regulations and Restrictions Criterion:** This criterion has been identified as confusing and often misunderstood by the public and decision makers. Additionally, it is redundant as it is included in the City Charter meant to provide a basis for the creation and uniform application of zone districts and their regulations and is not helpful for evaluation of a proposed zone district. For example, a U-SU-B (urban, single unit, 4,500 square foot minimum lot size) zone district in West Highland has the same regulations and restrictions as a U-SU-B zone district in Washington Park. Therefore, including this as a criterion in evaluation of a zone district proposal is unnecessary.
- **Remove Justifying Circumstances Criterion:** This criterion is unnecessary as the focus of rezonings are to implement the community’s vision for an area based on the recommendations from an adopted plan which are developed with extensive outreach and engagement. In fact, requiring a specific circumstance to justify a rezoning, in addition to being consistent with land use recommendations in an adopted plan could present a barrier to implementing the plan. For instances in which a significant change has occurred and a rezoning is necessary to provide a community need, the exception provision proposed within the Consistency with Adopted Plans criterion is better suited to address the issue.
- **Remove Additional Rezoning Review Criteria for Non-Legislative Rezonings:** Currently, the Denver Zoning Code requires two additional review criteria be met for non-legislative rezonings. This text amendment proposes that all rezonings must meet the same review criteria for recommendation of approval in an effort to increase clarity and predictability.

- **Proposed Review Criteria for All Rezoning:** This text amendment would result in updating the rezoning review criteria as follows:
 - General Review Criteria Applicable to All Zone Map Amendments
 - Consistency with Adopted Plans – The proposed official map amendment is consistent with the City’s adopted plans.
 - Community Need Exception – The City Council may approve an official map amendment that does not comply with subsection 12.4.10.7.a if the proposed official map amendment is necessary to provide for an extraordinary community need that was not anticipated at the time of the adoption of the city’s plans.
 - Public Interest – The proposed official map amendment is in the public interest.
 - Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements – The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district.

To reflect the proposed rezoning review criteria changes, this text amendment will also result in minor changes to the applicability language in Section 12.4.10.1 of the Denver Zoning Code.

Proposed Standard Operating Procedure Updates

The AEIR project proposes the following changes to CPD’s standard operating procedures (SOPs) to create a more accessible rezoning process, continue refining the equity analysis pilot and develop tools and a streamlined process for securing voluntary, city-enforced commitments to equitable outcomes from applicants proposing a rezoning that could result in significant impacts to neighbors. The specific details of these proposed updates may change based upon feedback from members of the public, task force members, stakeholders and decision makers during the public review period, and will be implemented after City Council approval of the AEIR text amendment and prior to the proposed effective date of February 25, 2025. These are discussed to provide background and are not included in the text amendment subject to City Council approval.

- **Update Posted, Mailed and E-Mailed Public Notice Materials:** Current public notice materials including postcards and signage do not provide helpful information in clear language that is easy to understand. With the adoption of the proposed AEIR text amendment, CPD will update these materials to more effectively communicate important information about rezonings, including more understandable explanations of a proposed zone district along with more direct and accessible links to the rezoning website with case information.
- **Improve Website and Guides for Customers and Community Members:** While the current rezoning website, guides, case information, and links provide a great level of detail and access to the rezoning process for varying audiences, they are not easy to find and navigate. With the adoption of the AEIR text amendment, CPD will update these materials and technology with a focus on improving the interface/user-experience on the rezoning webpage and providing direct links from public-facing materials to on-line case information (ex. QR Codes or similar).
- **Expand Staff Analysis, Presentations, and Reports with a Focus on Equity and Climate:** Currently, staff evaluation of equity and climate recommendations include key related

recommendations from Comprehensive Plan 2040, Blueprint Denver, and applicable neighborhood and small area plans. To advance equity in the rezoning process, CPD proposes to update SOPs related to staff evaluation, presentations, and reports in the following ways:

- Create concise guides that list and further explain the climate and equity vision elements/concepts in adopted plans that are related to rezoning requests and provide key questions for decision makers to evaluate a rezoning proposal against.
 - Update public-facing guides for customers and community members that better outline and explain the requirements and key process steps in the rezoning process (including when and how to get engaged in the process and provide meaningful comment), highlight Denver’s commitment to achieving equity and meeting climate goals and provide guidance for how to utilize those perspectives in land use and zoning decisions.
 - Update staff reports and presentations to include analysis and evaluation of equity and climate recommendations within adopted plans against potential outcomes of a proposed zone district.
- **Refine and Update Equity Analysis Pilot:** After the adoption of Blueprint Denver in 2019, CPD began using the equity analysis concepts and measurements therein (access to opportunity, vulnerability to displacement, and housing and jobs diversity) to further analyze large-scale rezonings (5+ acres in area) to identify potential mitigation strategies. The equity analysis pilot has been successful in educating applicants, community members and decision makers of the disparities that continue to exist across our city due to historical zoning regulations that resulted segregation, redlining, lack of public investment and gentrification, but it has not resulted in the creation of enough tools and programs to fully address the outstanding needs of a growing city driven to become more inclusive, affordable, and equitable by increasing access to opportunity, reducing vulnerability to involuntary displacement, and increasing housing and job diversity through the creation of complete neighborhoods. To address this, the AEIR project, focused on applicant-driven rezonings, which account for roughly 10% of development in our city, proposes updates to SOPs administered by CPD that will be finalized after the AEIR text amendment is adopted by City Council. This text amendment is just one way in which the city can advance a paramount goal of Blueprint Denver, which is to create an inclusive and equitable city. The updates will advance citywide equity goals especially through implementing strategies and recommendations clearly focused on creating equitable and complete neighborhoods. Key outcomes of these advances include:
 - Refine thresholds for rezonings that could result in significant impacts to the surrounding community – this will include reviewing current practices and outcomes to determine whether they have been meaningful.
 - Refine the equity analysis and brief provided to the applicant and requesting a meaningful response.
 - Refresh and update metrics that produce equity concept measurements with special attention to evaluating data points most relevant to a rezoning request.
 - Monitor thresholds and outcomes to remain nimble and able to adjust to ensure rezonings of significant impact are captured.
 - Educate applicants and community members of the data points informing the equity analysis and used to identify deficiencies or equity gaps within an area and provide mitigation strategies or a commitments list that could be voluntarily chosen from an applicant at the time of rezoning to help ensure equitable development outcomes.

Major Development Types that may Benefit from Equity Commitments	Proposed Thresholds Under Consideration
Multi-family and mixed-use commercial developments	1+acre sites requesting MU (multi-unit) or more intensive zone district
Large lots	5+acre sites
Industrial areas transitioning to residential uses	1+acre sites requesting residential or mix of uses where not currently allowed
Intense/dense development on smaller lots	1+acre sites requesting double or more of the currently allowed building height

- Develop Templates for Voluntary Commitments to Equitable Outcomes:** The current equity analysis pilot educates applicants and community members on existing equity gaps within a given neighborhood, using measurements from Blueprint Denver’s equity concepts, provides a list of strategies to mitigate disparate impacts of rezonings, and encourages applicants to consider how their future development project could contribute to equitable outcomes. This project proposes to develop a list of commitments that can be enforced by the city and chosen voluntarily by applicants at the time of rezoning to ensure components of equitable development. To advance equity in development for projects going through the rezoning process, key updates to CPD’s SOPs include:
 - List of City-enforced Commitments:** The AEIR project team worked with partner agencies to develop a list of commitments that can be negotiated, executed, monitored and enforced within existing budget and staff constraints. The list includes potential commitments like transportation demand management, onsite open space and prioritization of rental housing units for people who have been previously displaced from neighborhoods by rising housing costs. The list will be expanded over time as additional regulatory tools and programs are developed.
 - Standard Templates for Applicants:** The team will work with the departments responsible for monitoring these commitments to create a recordable template agreement to document them and ensure they are implemented.

Public Process

Below is a summary of the public process for the proposed AEIR text amendment:

January 12, 2022	AEIR Task Force began meeting (15 total, final meeting held in September 2024)
April 5, 2022	AEIR Open House #1
April 20, 2022	Planning Board Informational Item
October 4, 2023	Planning Board Informational Item

January 17, 2024	Planning Board Informational Item
October 2, 2024	Planning Board Informational Item
November 4, 2024	Summary of text amendment, strategy report and marked-up draft of text amendment posted to CPD website for public review and email notice sent to all Registered Neighborhood Organizations and all Denver City Councilmembers.
November 13, 2024	AEIR Open House #2
November 19, 2024	CPD written notice of the Planning Board public hearing sent to all members of City Council and registered neighborhood organizations.
December 3, 2024	City Council’s Land Use, Transportation, and Infrastructure Committee Informational Item
December 4, 2024	Planning Board Public Hearing
December 17, 2024	City Council’s Land Use, Transportation, and Infrastructure Committee
February 3, 2025	City Council Public Hearing (tentative)
February 25, 2025	AEIR proposed effective date

In addition to the touchpoints above, more than 900 members of the public signed up for AEIR email updates which were distributed at key project milestones. The project website was also updated with meeting notes, video recordings and presentations after each task force session. The project team also hosted 3 joint Planning Board & City Council work sessions in 2024 and presented to the Denver Metro Association of Realtors in November 2023 and May 2024.

Written Comments: Since publication of the public draft in early November, staff has received 6 comments from community members (all comments and questions received during the review period are attached).

- 1 comment with questions related to the city including plans to set aside affordable commercial real estate for underrepresented communities.
 - While outside of the scope of this project, the city can play a role in negotiating affordable commercial and residential units on large redevelopment sites through Denver Economic Development and Opportunity, often partnering with the Denver Urban Renewal Authority.
- 1 comment with questions related to availability of studies pertaining to water usage and parking requirements in new developments.
 - Studies regarding water usage and availability are outside of the scope of this project and largely managed by Denver Water.
 - The Denver Zoning Code contains minimum parking requirements dependent on location, use and number of units within a given building. These requirements are typically addressed during the site development plan review phase. For sites going

through rezoning, the site development plan review phase usually occurs after the rezoning is approved by Denver City Council.

- 1 comment expressing concerns and gaps related to public notification, review criteria and community engagement.
 - The Advancing Equity in Rezoning project will result in updates to public noticing, include business tenants and renters, make the review criteria easier to understand and will require the applicant to provide documentation of community outreach and engagement.
- 3 comments expressing support for the city updating the rezoning process with equity in mind, but raised concerns related to Denver’s definition of equity and suggested more clarity in the explanation and evaluation of rezoning review criteria.
 - The equity definition used for this project is taken from the Denver Comprehensive Plan and Blueprint Denver, both adopted by City Council.
 - The Advancing Equity in Rezoning project is focused on increasing equity in the rezoning process and is one component of the city’s efforts to achieve equity in all development.

Review Criteria and CPD Staff Evaluation

The criteria for review of a proposed text amendment are found in Section 12.4.11.4 of the DZC. CPD analyzed the proposed text amendment for compliance with the review criteria stated below and finds that the proposed text amendment satisfies each of the review criteria:

1. Consistency With Adopted Plans

The proposed AEIR text amendment is consistent with the following adopted plans, strategies and policies as described below:

- *Comprehensive Plan 2040*
- *Blueprint Denver*

Denver Comprehensive Plan 2040

The proposed text amendment is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

The proposed text amendment would update the rezoning process, which is very outdated and does not reflect Denver’s vision of becoming an equitable, affordable and inclusive city. The AEIR project will result in a process that is more accessible, transparent and equitable. The text amendment will restructure the rezoning review criteria to focus on advancing citywide goals and plans which better reflect community input and remove review criteria that are outdated, redundant, overly complicated and unnecessary to improve transparency for customers and residents. Additionally, it will provide more accessible and clear opportunities for the public to engage and get involved in the rezoning process by alerting neighbors earlier in the process and sending notices to tenants and renters of dwellings and structures. It is therefore consistent with the following strategies in the **Equitable, Affordable and Inclusive** vision element:

- Equitable, Affordable and Inclusive Goal 1, Strategy D to “Improve equitable access to city resources and city meetings through proactive and transparent communications, easy-to-access information and materials available in more than one language” (p. 28).

- Equitable, Affordable and Inclusive Goal 5, Strategy C to “Evaluate city plans, projects and major regulatory changes for the potential to contribute to involuntary displacement; identify and implement strategies to mitigate anticipated impacts to residents and businesses” (p. 28).
- Equitable, Affordable and Inclusive Goal 6, Strategy A to “Adopt strategies to ensure that city plans and processes, including budget decisions, incorporate equity” (p. 30).
- Equitable, Affordable and Inclusive Goal 6, Strategy B to “Track the information and measure the data needed to understand disparities and to evaluate the equity impacts of public programs and projects (p. 30).

This proposed text amendment would continue to require signs to be posted on the subject property after a complete rezoning application is submitted, and is therefore consistent with the following strategies in the **Strong and Authentic Neighborhoods** vision element:

- Strong and Authentic Neighborhoods Goal 6, Strategy A to “Continue to strengthen trust and communication between the city and all neighborhoods.” (p.14)
- Strong and Authentic Neighborhoods Goal 6, Strategy B to “Provide proactive communication and transparency about city policies, public safety, processes and plans.” (p. 14)
- Strong and Authentic Neighborhoods Goal 6, Strategy C to “Improve the engagement and representation of all Denverites, including communities of color, in neighborhood groups and city processes” (p. 14)

Blueprint Denver

Policies: The proposed text amendment is consistent with the following *Blueprint Denver* policies:

- Land Use and Built Form Policy 4: Ensure equitable planning processes and include underrepresented residents in plan and plan implementation (p. 74).
 - Strategy F. Create tools to increase access to the rezoning process, especially for underrepresented communities.
- Land Use and Built Form Policy 11: Implement plan recommendations through city-led legislative rezonings and text amendments. (p. 79)
 - Strategy B. Use text amendments combined with map amendments to apply strategies recommended by Blueprint Denver at the effective, area appropriate scale. Text amendments and large legislative rezonings should be guided by the equity concepts and maps in Chapter 2.
 - Strategy C. Use a robust and inclusive community input process to inform city-led rezonings and zoning code text amendments.

The proposed text amendment is consistent with *Blueprint Denver* because it improves access to the rezoning process and advances the equity concepts by applying them to rezonings that could have significant impact. This text amendment will continue to provide a more predictable process for the city, applicants, and community members as it requires applicants to demonstrate that community engagement has occurred prior to the submittal of an application. Community and stakeholder input has been provided numerous times over the course of the project at public hearings and other meetings. Therefore, the input process for this amendment (detailed above in the Public Process section) is appropriate and consistent with the Blueprint Denver recommendation.

Blueprint Equity Concepts: This text amendment is consistent with and will implement Blueprint Denver’s three equity concepts as follows:

- **Improving Access to Opportunity:** This text amendment is consistent with Blueprint Denver’s vision for more equitable access to amenities and quality-of-life infrastructure throughout the city. In particular, this text amendment improves this equity concept by providing access for renters and tenants to more actively engage with and participate in the rezoning process.
- **Reducing Vulnerability to Displacement:** by providing applicants and community members with an equity analysis more focused on potential equity outcomes of a rezoning with significant impact, strategies can be put in place to mitigate displacement, such as voluntary commitments to transportation improvements or additional affordable housing units agreed upon at the time of rezoning.
- **Expanding Housing and Jobs Diversity:** This text amendment will not have a direct impact on jobs and housing diversity and is therefore neutral on this equity concept.

2. Public Health, Safety and Welfare

This text amendment furthers the public health, safety, and welfare of Denver residents, landowners, businesses, and community members by implementing the city’s adopted plans through regulations that improve and expand access to a public process and update the rezoning review criteria, making them easier to understand.

3. Uniformity of District Regulations and Restrictions

This text amendment will result in processes and regulations that are uniform within each zone district.

Attachments

1. Marked-up draft of AEIR text amendment
2. Public comments received to date