



To: Members of the Denver City Council
From: The New Code CPD Project Management Team
Date: June 17, 2010
Re: CPD Staff Report for Proposed New Denver Zoning Code

Introduction

After significant public and stakeholder outreach, participation, and input over the past five years, the Community Planning and Development Department is pleased to present for the City Council's final decision the first comprehensive citywide amendment of the City of Denver's zoning code since 1956. This comprehensive amendment is both a language amendment to re-codify Chapter 59 of the Denver Revised Municipal Code and create a new Denver Zoning Code, and a legislative official map amendment to rezone lands within the city to the new zone districts contained in the amended code. The comprehensive language and map amendments, in their entirety, are hereinafter referred to as "the New Code."

Impetus for the New Code

The impetus behind the New Code is threefold:

1. *Implement Denver's adopted plans.* Foremost, the New Code is necessary to implement Denver's adopted Comprehensive Plan (2000) and Blueprint Denver (2002), which as one of their top priority action items, listed the overhaul of the city's zoning regulations as instrumental to Denver's sustainable long-term growth and quality of life.

The land use element of **Comprehensive Plan 2000** states the following general goal: "Manage growth and change through effective land use policies to sustain Denver's high quality of life." The Plan notes the significant opportunities offered Denver for future population and economic growth, but identifies the existing land use regulatory system (zoning) as a major barrier to Denver's ability to take advantage of those opportunities for smart growth. To remedy this, Plan 2000 recommends "a complete re-examination of zoning classifications and the zone map...[because] [t]he existing regulatory system was designed to reflect the values and aspirations of another era; today, it

encumbers reasonable, healthy development reflecting the needs, values and vision of our times.”¹

Blueprint Denver, Denver’s integrated land use and transportation plan, followed on Comprehensive Plan 2000’s heels and was adopted by City Council in 2002. Blueprint Denver specifically promotes a long-range, sustainable growth management strategy that directs the majority of projected long-range population and economic growth to “Areas of Change,” and which manages and limits growth in “Areas of Stability.” Areas of Change are portions of Denver where past and planned public investment in infrastructure can support increased intensity and densities of growth and activity, while Areas of Stability are mostly developed neighborhoods within Denver where a premium is placed on development that promotes continued stability and maintenance of neighborhood character.

To implement this growth management strategy, Blueprint Denver recommends the creation of multi-modal streets, where streets are used to move pedestrians and bicyclists as well as vehicles, and the promotion of mixed-use development. Similar to Comprehensive Plan 2000, Blueprint Denver identified the current zoning regulations as a barrier to its recommended policies and goals, finding generally that the current zoning code:

- “reveals a haphazard and unfocused potential land use pattern that does not correlate with major transportation corridors, transit station areas, or the neighborhoods near Downtown.”
- “A lack of support for the mixed-use, pedestrian-friendly environment that could develop along many of the transit corridors in Denver.”
- “Insufficient intensity to encourage investment, such as amenities and services that are essential to pedestrians and transit users.”²

Accordingly, Blueprint Denver states that “one of the highest priorities...to implement the vision represented by this document” must be to revise the current land use and zoning regulations.³

Thus, both Comprehensive Plan 2000 and Blueprint Denver are clear that overhauling Denver’s zoning regulations is necessary to successfully implement these critical plans. Simply modifying the current zoning code, or continuing with piecemeal amendments, would not accomplish the plans’ policies and long-term goals.

¹ Comprehensive Plan 2000, page 46. See also, pages 58-59 and the discussion of Land Use Policy Objective 2: Denver Zoning Ordinance, which states “Clarify and update Denver’s Zoning Ordinance and related ordinances, regulations and procedures to be consistent with the goals and objectives of Denver’s Citywide Land Use and Transportation Plan.” The latter reference is to what ultimately became the Blueprint Denver plan adopted in 2002.

² Blueprint Denver (2002), page 14. See a more detailed lament of the current Denver zoning code and its “limitations” on pages 80-82 of Blueprint Denver.

³ Blueprint Denver, page 80.

2. *Prepare Denver for economic recovery and continued growth and prosperity into the 21st century.* Denver, like the rest of the nation, has been challenged by the economic recession in the last several years. Commercial and residential real estate development in the city has slowed, and is just beginning to show signs of modest recovery in certain sectors. The New Code enables new growth and development in parts of Denver that have the infrastructure and land capacity to accommodate it best; namely:⁴
 - The city’s commercial corridors and transit station areas, where multi-modal transportation access exists or is planned, which enables greater densities of new development and redevelopment;
 - The city’s redeveloping areas near Downtown, neighborhoods like Ballpark, Upper Larimer, and River North, which have already begun to change land use from purely industrial and commercial uses to increasingly mixed-use development; and
 - The city’s large-scale “new communities” like the Gateway and Stapleton neighborhoods.

3. *Update, modernize, and improve Denver’s outdated, unwieldy, 53+ year old code.* The current zoning code, at its core, reflects its mid-19th century land use and development roots. For example, the existing code’s 1950s emphasis on new development rather than reuse, redevelopment or reinvestment; or its emphasis on “the newer, the better” rather than balancing new development with enhancing the stability of established neighborhoods; or its emphasis on use regulations rather than a more balanced regulation of building form and use.

The ensuing decades and shifts in land use priorities led to numerous patchwork amendments, many of which built a firm foundation for the New Code. This includes:

- The introduction of mixed use zoning in the Gateway in 1998, and later in Stapleton, and its significant employment in older, redeveloping parts of Denver during the past decade, and
- The adoption and legislative mapping of the more building-form-oriented Main Street zoning along the entire Colfax Avenue corridor.

While good in intention and even result, the sum total of changes over the decades resulted in internal code inconsistencies, an array of overlapping and complex zoning procedures, and uneven application of the “newest and best” zoning tools. In response, the New Code carries forward the best of “what is working” in the current regulations and combines them with more balanced land use and building form approaches in an easy-to-use 21st century zoning code to implement the city’s land use plans and policies.

⁴ These are areas that Blueprint Denver, the city’s integrated long-range transportation and land use plan adopted in 2002, designate as “Areas of Change.” See related discussion about Areas of Change above.

Summary of the Text Amendments in the New Code

The New Code improves upon the current zoning code in three fundamental ways:

1. *The New Code adopts a context-sensitive zoning approach.*
The current code is premised on a “one size fits all” approach to zoning: A single set of building regulations is expected to work well, and lead to optimal results, in all circumstances where applied, regardless of actual differences in neighborhoods’ physical characteristics. In this way, the current code presumes a single set of regulations for a “R-1” zoned single-family neighborhood will lead to optimal building results in each and every neighborhood zoned “R-1,” no matter that the development pattern of “R-1” zoned neighborhoods (e.g., a suburban neighborhood like Hampden Heights) in fact are very different than other “R-1” zoned neighborhoods (e.g., an urban neighborhood like Congress Park.)

The New Code departs from the “one size fits all” approach by distinguishing zoning regulations by the type and character of place or “neighborhood context” in which they will be applied. The New Code recognizes seven distinct neighborhood contexts⁵ in Denver. The zoning regulations for building forms⁶ allowed in each of these seven neighborhood contexts vary from each other to ensure resulting buildings are “true” to their context – i.e., building forms respect and fit in with an existing or planned neighborhood context composed of discernable and different patterns of streets, lots, buildings, and vehicle access points. In this way, zoning standards for commercial corridor development in a suburban neighborhood context are different than zoning standards for development in an urban center context located next to a planned light rail transit station. See sample zone district listing by context below.

⁵ The seven distinct “neighborhood contexts” recognized for zoning purposes in the New Code are: (1) Suburban Neighborhood Context; (2) Urban Edge Neighborhood Context; (3) Urban Neighborhood Context; (4) General Urban Neighborhood Context; (5) Urban Center Neighborhood Context; (6) Downtown Neighborhood Context; and (7) several “Special Contexts” including an Open Space Context and Industrial Context.

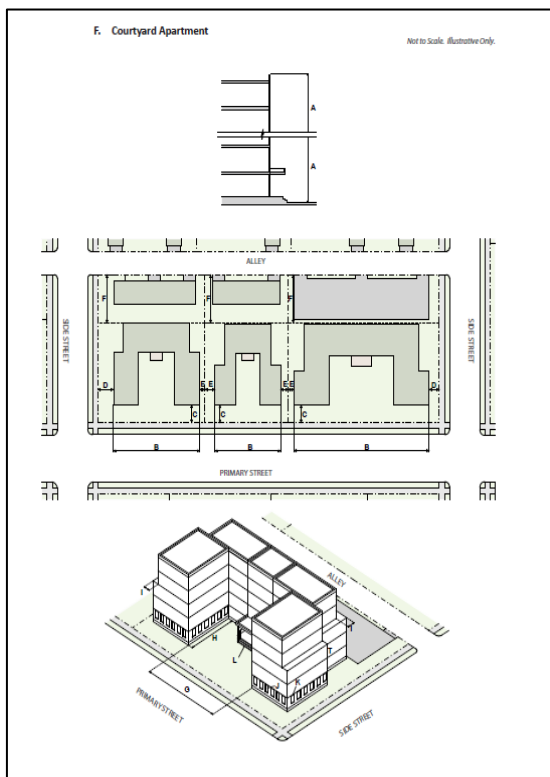
⁶ By “building form”, this report means regulations that shape the massing, scale and orientation of a building and its accessory uses (such as parking) and structures. “Building form” standards include standards that address building height and massing (e.g., maximum height in feet and stories; bulk plane regulations); building siting (e.g., minimum zone lot size/width, building setbacks from streets, building coverage, location of surface parking); and building design elements (e.g. upper story setbacks; ground story activation standards such as street-facing pedestrian entrances and transparency standards).

GENERAL URBAN NEIGHBORHOOD CONTEXT		URBAN CENTER NEIGHBORHOOD CONTEXT		DOWNTOWN NEIGHBORHOOD CONTEXT	
G-RH-3	Row House 3	C-MX-3	Mixed Use 3	D-C	Downtown Core District
G-MU-3	Multi Unit 3	C-MX-5	Mixed Use 5	D-TD	Downtown Theater District
G-MU-5	Multi Unit 5	C-MX-8	Mixed Use 8	D-LD	Lower Downtown District
G-MU-8	Multi Unit 8	C-MX-12 C-MX-16	Mixed Use 12 Mixed Use 16	D-CV	Downtown Civic District
G-MU-12	Multi Unit 12	C-MX-20	Mixed Use 20	D-GT	Downtown Golden Triangle
G-MU-20	Multi Unit 20	C-RX-5	Residential Mixed Use 5	D-AS	Downtown Arapahoe Square
G-RO-3	Residential Office 3	C-RX-8	Residential Mixed Use 8		
G-RO-5	Residential Office 5	C-RX-12	Residential Mixed Use 12		
G-MX-3	Mixed Use 3	C-MS-5	Main Street 5		
G-RX-5	Residential Mixed Use 5	C-MS-8	Main Street 8		
G-MS-3	Main Street 3	C-MS-12	Main Street 12		
G-MS-5	Main Street 5	C-CCN	Cherry Creek North District		

2. *The New Code emphasizes balancing building form and land use regulations.* As noted above, the current 1950s code is rooted in a traditional use-based zoning approach; “compatibility” of properties is best assured by regulating them so that only similar or complementary uses are allowed on neighboring properties. In this approach, the primary distinction between zone districts and their application on the ground is one of land use. Residential zone districts in the current code are distinguished primarily by whether they allow only single-unit dwelling uses or whether they allow multi-unit dwelling uses (R-1 versus R-2 or R-3). Business zone districts, similarly, are also distinguished by whether they allow only office uses or whether they allow a wide variety of commercial retail and office uses (B-1 versus B-2 or B-3).

The New Code, while not ignoring the importance of use regulations, shifts emphasis to better balance regulation of land use with careful regulation of building form. Contemporary zoning practice has evolved to recognize the importance of compatibility in both land use and building form regulations. Denver has already started this shift in emphasis with the adoption and application of Main Street zoning along Colfax Avenue, which accommodates a variety of land uses and intensities and clearly regulates key building elements that shape a pedestrian-friendly “main street” environment (e.g., buildings located to form street edges and corners, ground story windows and entrances).

The New Code builds on Denver’s experience with mixed use and form-based zoning approaches in the current code, and applies those approaches city-wide but within the context-based framework described above. The results are new, context-sensitive zoning regulations that emphasize the importance of the resulting building form, its location relative to streets and other buildings, the location of parking, convenient pedestrian access, etc. – while providing greater flexibility for uses within the building. *See* sample of a set of building form standards below.



COURTYARD APARTMENT				
HEIGHT				
	M-RX-5	M-MX-5	M-IMX-8	M-IMX-12
A. Stories (max)	5	5	8	12
A. Feet (max)	25'	70'	100'	140'
SITING				
REQUIRED BUILD-TO				
B. Primary Street (% within min/max)*	50% 0/15'	50% 0/15'	60% 0/15'	50% 0/15'
SETBACKS				
C. Primary Street (min)	0'	0'	0'	0'
D. Side Street (min)	0'	0'	0'	0'
E. Side, Interior (min)	0'	0'	0'	0'
F. Side, Interior, adjacent to Protected District (min)	10'	10'	10'	10'
F. Rear (min)	0'	0'	0'	0'
F. Rear, adjacent to Protected District, alley/no alley (min)	5'/10'	5'/10'	5'/10'	5'/10'
PARKING				
Surface Parking Location	Not allowed between the building and the Primary Street			
Vehicle Access	Shall be determined as part of Site Development Plan Review			
DESIGN ELEMENTS				
CONFIGURATION				
G. Street-Facing Courtyard Width (min)	15'	15'	15'	15'
H. Street-Facing Courtyard Depth (min)	30'	30'	30'	30'
I. Upper Story Setback Above 27', adjacent to Protected District, Rear, alley/rear, no alley and Side Interior (min)	15/20/25'	15/20/25'	15/20/25'	15/20/25'
I. Upper Story Setback Above 51', adjacent to Protected District, Rear, alley/Rear, no alley and Side Interior (min)	na	30/35/40'	30/35/40'	30/35/40'
I. Upper Story Setback Above 70', adjacent to Protected District, Rear, alley/Rear, no alley and Side Interior (min)	na	na	90/90/90'	90/90/90'
GROUND STORY ACTIVATION				
J. Transparency, Ground Story Primary Street (min)	30%	30%	30%	30%
K. Transparency, Ground Story Side Street (min)	25%	25%	25%	25%
L. Required Entrance	Yes			

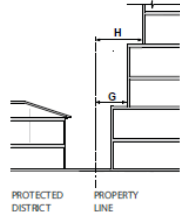
*Courtyard Width counts toward the required Build-To

3. *The New Code is organized in a more user-friendly and easy-to-navigate manner.* The New Code vastly improves the organization of the current code by consolidating the content of what most code users need to know in each context article. In this way, once a code user knows their context and zone designation (e.g., U-MX-3), they simply need to go to one article in the Code (in this example, Article 5, the Urban (“U”) Neighborhood Context article), to find answers to the following key questions:

- How big can I build a building on my property?
- Where can I locate a surface parking lot to serve my building?
- What alternatives do I have for meeting specific building form standards, like setbacks or the build-to requirements?
- What uses am I allowed on my property and are there any specific use limitations and/or standards?
- Do I have to go through any kind of review or public hearing process for the use I want to establish?
- How many vehicle and bicycle parking spaces do I have to provide for the use of my property?

The New Code also improves the organization of the current code by consolidating and presenting generally applicable zoning standards in one place versus scattered across multiple sections or articles of the code. For example, all zoning procedures are found in Article 12, all rules of measurement are found in Article 13 (Division 13.1), and all parking standards are found in Article 10 (Division 10.3).

In addition, the New Code relies on graphics and tables to more effectively summarize and present zoning regulations, versus the current code’s reliance on dense text to do the same. See, for example, a comparison of how the current code and New Code present the same bulk plane provisions for residential protection below.

Current Code Residential Protection Standard	New Code Residential Protection Standard																				
<p>Sec. 59-66. Special limitations on bulk planes and building heights.</p> <p>(a) Bulk plane limitations: Within one hundred seventy-five (175) feet of any zone lot designated as RS-4, R-X, R-0, R-1, R-2, R-2-A or R-2-B (hereinafter called the protected districts), no part of any structure (except church spires, church towers, flagpoles, mast or pole antennas, chimneys, flags, vents, flash mounted solar panels or accessory water tanks) located on a zone lot designated as R-3, R-3-X, R-4, R-5, H-1-A, H-1-B, R-1, R-4-1, R-4-2, R-4-3, R-4, R-4-A, R-4-B, R-4-C, C-N, C-N-30, R-18-30, C-18J-10, C-18J-20, C-18J-30, I-0, I-1, I-2, O-1, O-2, OS-1, HS-1, HS-2, HS-3 or P-1 (hereinafter called the controlled districts) shall project up through bulk limits which are defined by planes extending up and over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal and which planes start at horizontal lines which are co-directional to the district boundary lines separating the zone lot from the protected district and pass through either of the points specified below, whichever results in a greater above-ground dimension for the bulk plane starting line: (Ord. No. 08-53, § 5, eff. 2-8-08)</p> <p>(1) Ten (10) feet above the midpoint of each such district boundary line.</p> <p>(2) If the controlled district is an R-3 zone district, then the above ground horizontal line specified for area A of the protected district, as applicable. The limitation of this subsection shall not apply in situations where the zone lot designated as one (1) of the protected districts contains a high-rise building.</p> <p>(b) Height restrictions: Within one hundred seventy-five (175) feet of any zone lot in a protected district no building in a controlled district, except the HS-3 district shall have a height greater than seventy-five (75) feet. The restriction of this subsection shall also apply to any zone lot designated as R-2-A when such zone lot is located within one hundred seventy-five (175) feet of another zone lot designated as RS-4, R-X, R-0, R-1, R-2 or R-2-B. The restriction of this subsection shall not apply in situations where the zone lot within the protected district contains a high-rise building.</p> <p>(c) Effect of the subsection on current projects: Nothing herein contained shall require any change in the plans or construction of a building for which a zoning permit has been legally issued prior to or during a thirty-day period following the effective date of the ordinance from which this subsection is derived; provided, however, that a building permit has been legally issued within six (6) months following the issuance of a zoning permit. The zoning administrator may extend the period for obtaining a zoning permit for an additional sixty (60) days if necessary in order for the applicant to comply with the requirements of another public agency. The zoning administrator may, also, extend the period for obtaining a building permit for an additional six (6) months if due diligence is demonstrated in obtaining such a permit.</p> <p>(d) Measurement of building height: For the purpose of this subsection the height of buildings shall be the vertical distance from the ceiling of the highest story used for human occupancy to the average elevation of the corners of the proposed building at the finished grade. Parapets and horizontal roof structures may extend a maximum of thirteen (13) feet above such ceiling. Sloping roof structures, screening devices and rooftop features such as mechanical equipment, elevator penthouses and venting systems may extend a maximum of twenty (20) feet above such ceiling. Flash mounted solar panels may be mounted to any roof regardless of height. The horizontal area of rooftop features shall not exceed twenty-five (25) percent of the horizontal area of the highest floor used for human occupancy. The ceiling shall be defined as the horizontal surface which establishes the upper limit of a story used for human occupancy. The term “ceiling” also refers to a drop or suspended ceiling.</p>	 <table border="1" data-bbox="899 848 1435 957"> <thead> <tr> <th style="background-color: #cccccc;">DESIGN ELEMENTS</th> <th>C-MX-3</th> <th>C-RX-5</th> <th>C-RX-8</th> <th>C-RX-12</th> </tr> </thead> <tbody> <tr> <td>BUILDING CONFIGURATION</td> <td>C-MX-3</td> <td>C-MX-5</td> <td>C-MX-8</td> <td>C-MX-12</td> </tr> <tr> <td>G Upper Story Setback Above 27', adjacent to Protected District, Rear, alley/Rear, no alley and Side Interior (min)</td> <td>15'/25'</td> <td>20'/25'</td> <td>20'/25'</td> <td>20'/25'</td> </tr> <tr> <td>H Upper Story Setback Above 51', adjacent to Protected District, Rear, alley/Rear, no alley and Side Interior (min)</td> <td>na</td> <td>35'/40'</td> <td>35'/40'</td> <td>35'/40'</td> </tr> </tbody> </table>	DESIGN ELEMENTS	C-MX-3	C-RX-5	C-RX-8	C-RX-12	BUILDING CONFIGURATION	C-MX-3	C-MX-5	C-MX-8	C-MX-12	G Upper Story Setback Above 27', adjacent to Protected District, Rear, alley/Rear, no alley and Side Interior (min)	15'/25'	20'/25'	20'/25'	20'/25'	H Upper Story Setback Above 51', adjacent to Protected District, Rear, alley/Rear, no alley and Side Interior (min)	na	35'/40'	35'/40'	35'/40'
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Summary of the Citywide Map Amendments in the New Code

As noted above, the New Code includes not only a comprehensive re-codification of the text of the current zoning code, but also a legislative amendment to the city’s Official Map to comprehensively apply the New Code zone districts to the majority of lands in the City and County of Denver.

Remapping to new zone districts in Denver, including on the scale of this citywide remapping, begins with a baseline analysis of three criteria: (1) existing conditions; (2) current zoning entitlement; and (3) adopted plan recommendations.⁷ Beginning mid-summer 2009, the citywide map amendments for the New Code, grounded in this baseline analysis, were reviewed by CPD staff, then reviewed by City Council members prior to public distribution, and then subject to intense public scrutiny and comment. Through five subsequent rounds of map revisions, the baseline criteria, as they applied to specific properties and neighborhoods in Denver, were continuously re-evaluated as prompted by public comment and City Council direction. The legislative official map amendment for the New Code before the City Council reflects the culmination of these multiple rounds of analysis, scrutiny, and public input.

⁷These three baseline criteria are described in more detail in the text below.

In more detail, the first draft maps were prepared based on an analysis of the following three criteria (not listed in any priority order):

1. *Existing “on the ground” conditions and neighborhood context.* This included an analysis of, among other things, existing patterns of land use (e.g., predominantly single-unit dwelling uses, mixed use, etc.), zone lot size/width, vehicle access (e.g., access from alleys versus from abutting street), building intensity (e.g., height, building coverage), and building type or form (e.g., row home versus apartment building forms).
2. *Existing zoning entitlement.* This included an analysis of, among other things, what a property’s or neighborhood’s current zoning allows, including the mix of primary and accessory uses allowed, the maximum floor area ratio (FAR) or building height allowed, and any other applicable building form standards in the current zoning (e.g., Main Street requirements for minimum build-to).
3. *Recommended future land use in adopted plans.* This included an analysis of, at a minimum, Blueprint Denver’s recommended future land use classification for an area (e.g., “single family residential,” “urban residential,” “commercial corridor,” or “pedestrian shopping corridor”). In cases where a small area plan applied, such as a transit station area plan or neighborhood plan, future land use recommendations contained in such plans were also considered in making mapping recommendations.

As stated above, the legislative map amendment proposes the application of New Code zone districts to all lands within the City and County of Denver, including public owned lands, with the following important exceptions:

1. Lands zoned to a Planned Unit Development (PUD) District under the current code;
2. Lands zoned to a base zone district under the current code, but with waivers and conditions; and
3. Lands zoned to a base zone district under the current code, but with an approved Planned Building Group site plan.

All together, the above excluded lands total approximately 16,619 acres (22.5%) of all zoned lands in Denver (excluding DIA). More importantly, all three of the types of currently-zoned lands listed above share a common characteristic, which explains their exclusion from application of the New Code at this point in time: they all have customized zoning, individually negotiated and tailored to the specific property.

This customization, and the time and resources it would take to analyze all of these 900+ zone districts and recommend an appropriate New Code “translation,” precluded their rezoning as part of this citywide map change.⁸

All lands that retain their current code zone districts (e.g., lands zoned “R-MU-20 with waivers”) will continue to operate, and may be developed, under their current code entitlements and applicable procedures.

Beginning in the summer of 2009, as described in more detail in the following section, each round of zone map recommendations was reviewed by City Council members prior to public distribution, and then subject to extensive public review and input. The official map amendment submitted as part of the New Code reflects the culmination of multiple rounds of objective analysis by city staff based on the above three criteria, City Council direction, and property owner and public input.

Process of Preparing the New Code and Public Participation

The New Code is the result of a five-year, deliberate public process to prepare the draft language and map. Since the project’s inception in 2005, a mayor/city council-appointed Zoning Code Task Force (ZCTF) has overseen and guided the project. The 16-member Task Force is a diverse group comprised of volunteers drawn from neighborhood organizations, various business sectors, the historic preservation community, and the city's political leadership. The ZCTF presented their unanimous recommendation to approve the New Code to the Planning Board on April 21, 2010. A copy of the Zoning Code Task Force’s recommendation is found in **Exhibit A** to this staff report.

A hallmark of this project has been the inclusiveness and breadth of public outreach and participation. The project kicked off in 2005 and 2006 with a series of city-wide public “listening sessions” with neighborhood and key industry stakeholder groups, followed by work sessions with the ZCTF, to diagnose and identify the top priority problems with the current zoning code that the New Code should address. *See* Final Problem Statements endorsed by the ZCTF in 2007 to guide the New Code project, attached to this staff report in **Exhibit A**.

Following the diagnosis phase of the New Code project, the city and its citizens embarked on a year-long dialogue about the best zoning approach to tackle the priority problems. The choices ranged from a relatively simple “clean-up” and modernization of the current code that would retain the current code’s basic use-based approach and framework; to a phased approach of, first, reorganization of content, then a substantive overhaul, and only later piecemeal re-mapping of the city over time; to a comprehensive overhaul of the code’s approach and rewrite of the code language and map taken together to City Council as a package. The ZCTF recommended, with City Council endorsement, the comprehensive overhaul and rewrite of the code language and map at the same time

⁸ However, it is important to note that in several instances, individual property owners took the initiative during this amendment process to review their own PUDs or zoning with waivers and conditions, and request New Code district re-mappings. CPD and City Council members accommodated these individual rezone requests where possible.

as the only way to effectively implement the city's adopted plans and firmly establish the New Code as the city's zoning baseline.

Drafting of the New Code began in 2008, with first drafts subject to internal city review from a 45-member technical review committee. Committee members were drawn from staff representing all divisions of Community Planning and Development (including planning services, development services, and neighborhood inspection services), the City Attorney's office, Public Works, Parks and Recreation, Office of Economic Development, and Greenprint Denver.

The ZCTF reviewed early drafts of the New Code during the first quarter of 2009, which was followed by the launch of the New Code project website (www.newcodedenver.org) in April 2009. Planning Board and City Council members were regularly briefed during the drafting process, and provided final policy direction as needed. The first public review draft of the New Code was published in May 2009, which kicked off a summer-long intensive public outreach and comment-collecting effort, the highlights of which follow:

- Project website publication of the New Code language and map, with commenting features activated to allow article-specific comments and geographic-specific comments on proposed map changes.
- CPD and City Council co-sponsored public presentation of the New Code in each council district (13 meetings in May-June 2009 – over 1,000 participants)
- On-going briefings with each individual City Council member
- Planning Board work sessions, open to the public.
- Bi-monthly ZCTF meetings, open to the public.
- Key stakeholder presentations and small-group meetings, including presentations to the Homebuilders Association (HBA), the Denver Board of Realtors, and the Denver Inter-Neighborhood Cooperation (INC) council.

Based on public input addressing both the Draft #1 map and text, CPD staff revised and published a second public review draft in August 2009. Again, extensive public outreach and participation followed, including:

- Project website publication of Draft #2 of the New Code language and map, with the same commenting features activated.
- Postcard mailing announcing the New Code project, upcoming meeting schedule, and project website to all owners of property in Denver (219,149 cards mailed).
- CPD and City Council co-sponsored public presentation of the New Code in each council district (13 meetings in August-September 2009 – over 880 participants).
- On-going briefings with each individual City Council member.
- Planning Board work sessions, open to the public.
- Bi-monthly ZCTF meetings, open to the public.

- Focused review and redrafting efforts to ensure the New Code adequately removed barriers to, and included accommodations for, the city’s sustainability and affordable housing goals and objectives.
- Continuing key stakeholder presentations and small-group meetings, including INC, various neighborhood organizations, and business sector representatives.

Based on public input addressing both the Draft #2 map and text, CPD staff revised and published a third public review draft in November 2009. Once again, extensive public outreach and participation followed, including:

- Project website publication of Draft #3 of the New Code language and map, with the same commenting features activated.
- Joint City Council and Planning Board “listening sessions” held on two consecutive days in mid-November 2009 to hear public comment and input on Draft #3 (a total of 148 persons spoke at these sessions, which lasted 6 hours).
- “Office hour” sessions for the general public to ask questions and get answers from CPD staff.
- On-going briefings with each individual City Council member.
- Bi-monthly ZCTF meetings, open to the public.
- Continuing key stakeholder presentations and small-group meetings, including INC, the American Institute of Architects (AIA) Denver chapter, the Downtown Denver Partnership, the Urban Land Institute, the HBA, the Denver Board of Realtors, commercial and residential real estate broker groups, and numerous neighborhood organizations.

Based on public input addressing both the Draft #3 map and text, CPD staff revised and published a fourth “final public review draft” in January 2010. Once again, extensive public outreach and participation followed, including:

- Project website publication of Draft #4 of the New Code language and map, with the same commenting features activated.⁹
- “Office hour” sessions for the general public to ask questions and get answers from CPD staff.
- On-going briefings with each individual City Council member.
- Bi-monthly ZCTF meetings, open to the public.
- Formation of and intensive interaction with a new “Business and Retail Working Group,” including representatives from specific business types (e.g., gas stations, fast-food services) and the commercial real estate sector (e.g., retail and industrial land developers). This BRWG served as a sounding board and advisory body to the ZCTF on the New Code’s treatment of nonresidential properties in Denver.
- Continuing key stakeholder presentations and small-group meetings, including INC, the American Institute of Architects (AIA) Denver chapter, the Urban Land Institute, and various neighborhood organizations.

⁹ To date, the New Code project website (www.newcodedenver.org) has enjoyed great success, with 31,185 distinctive visitors.

Based on public input addressing both the Draft #4 map and text, CPD staff revised and published a fifth “Planning Board Public Hearing Draft” on March 31, 2010. The Planning Board conducted public information sessions on the New Code at four consecutive Planning Board meetings held between February 17 and April 7, 2010. It conducted a public hearing on the New Code on April 21, 2010.

Supplemental Code Modifications Presented to the Denver Planning Board

While the March 31, 2010, draft of the New Code was a complete package, there were additional code language and map revisions CPD recommended to the Planning Board at the April 21, 2010, public hearing. Those revisions reflected continuing public input and comment on the March 31, 2010, version of draft code between its publication and the Planning Board hearing date. CPD summarized these additional revisions in a written supplement to the Planning Board staff report, which was presented to the Planning Board at the April 21, 2010, public hearing.

Planning Board Public Hearing and Recommendation to the City Council

The final decision to adopt the New Code is within the City Council’s legislative purview, and the Planning Board plays an advisory role in the formal adoption process. Specifically, the Planning Board’s role is to review the New Code draft at a public hearing, consider the public testimony given at the hearing, and make a recommendation to the City Council to either adopt the New Code (including both the language and the map), to adopt the New Code with specific modifications recommended by the Board, or to not adopt the New Code.

On April 21, 2010, the Planning Board convened a public hearing on the New Code. During a public hearing that lasted nearly 5 hours, the Planning Board took testimony from 37 members of the public, and accepted written comments and positions from additional persons, organizations, and registered neighborhood organizations (RNOs). At the conclusion of the public hearing, the Planning Board, by a unanimous 9-0 vote, **recommended approval** of the March 31, 2010, Planning Board Public Hearing Draft, including all the code modifications recommended in the supplements to the Planning Board staff report.

Additional Public Outreach Since Planning Board Hearing

Outreach to the general public and CPD briefings and interactions with City Council members continued after the Planning Board hearings. CPD continued to host “office hours” for the general public – a total of 6 office hour sessions (15 hours total) were offered both during the Planning Board hearing and in the two months since. A total of 39 persons were helped during these post-Planning Board office-hour sessions. Additionally, CPD continued its interactions with key stakeholder groups, including the BRWG, INC, and a number of individual neighborhood organizations.

City Council Review and Final Decision on the New Code

The final decision to adopt the New Code is within the City Council's legislative purview. Specifically, the City Council's role is to review the New Code draft at a public hearing, consider the public testimony given at the hearing, and make a final decision to either adopt the New Code (including both the language and the map), to adopt the New Code with specific modifications, or to not adopt the New Code. The criteria by which the City Council will make its decision on the New Code are:

1. Whether the New Code is consistent with the city's adopted plans, including Comprehensive Plan 2000 and Blueprint Denver.
2. Whether the New Code is necessary to correct an error or respond to changed or changing conditions
3. Whether the New Code provisions result in uniformity of district regulations and restrictions. As explained in the provisions of the Denver Municipal Code and City Charter: an amendment to the zoning code "shall result 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."
4. Whether the New Code furthers the public health, safety and general welfare.

Blueprint Denver Committee Review and Determination

The Blueprint Denver committee of the City Council considered the New Code at its regular April 28, 2010, meeting. The Blueprint Denver committee reviewed the March 31, 2010, Planning Board Public Hearing draft of the New Code, including the supplemental code modifications recommended by the Planning Board, and including additional code modifications recommended by CPD staff at the April 28th meeting.

By unanimous vote, the Blueprint Denver Committee voted to forward the New Code, as presented in the March 31, 2010, draft and as modified according to the Planning Board's recommendation and according to CPD staff's recommendations presented at the committee meeting, to the full City Council for its deliberation at a public hearing.

Preparation of the Final Adoption Draft of the New Code – the Denver Zoning Code

Based on the Planning Board's and the Blueprint Denver committee's recommendations and direction, as well as continuing city staff and public input and comments, CPD created a sixth and final draft of the New Code. The final draft is titled, and will be known as, the "Denver Zoning Code," and was published and filed with the Denver City Clerk on May 20, 2010. The effective date of the Denver Zoning Code, if adopted, will be June 25, 2010.

CPD Recommendation for City Council Action

Adoption of the New Code is a legislative action of the City Council because of its citywide and general application. Based on the extensive project background described in this staff report, Community Planning and Development recommends that the Denver City Council approve and adopt the new Denver Zoning Code based on the findings that the new Denver Zoning Code is consistent with and implements the city's adopted land use and transportation plans, that the new Denver Zoning Code is necessary to respond to changed conditions since the last comprehensive overhaul of Denver's zoning code in 1956, that the new Denver Zoning Code results in uniformity of zone district regulations and restrictions, and that adoption of the new Denver Zoning Code furthers the public health, safety and general welfare.

Exhibit A

Zoning Code Task Force

Task Force Recommendation to
Adopt the New Code (4/21/10)

Problem Statements (2007)



THE NEW ZONING CODE

PUTTING BLUEPRINT DENVER TO WORK

To: City and County of Denver Planning Board
City and County of Denver City Council
From: Zoning Code Task Force
Subject: New Code Endorsement
Date: April 20, 2010

INTRODUCTION

In January of 2005, Mayor Hickenlooper appointed a community-based Zoning Code Task Force to guide and oversee the creation of the New Code. This Task Force is a diverse group of volunteers drawn from neighborhood organizations, business sectors, the historic preservation community and the City's political leadership. The policy directive for the Task Force is to implement Blueprint Denver, as well as to update the 50+ year old current Zoning Code with a more predictable, more understandable new Zoning Code. The work of our group included four phases:

- Phase I January 2005 to August 2006: The Analysis and Problem Definition Phase began laying the foundation for the effort with the appointment of the Zoning Code Task Force and Citizens Advisory Group. Task Force members first received an immersion course in the current Zoning Code and participated in hiring a consultant for the project. Task Force members then participated with CPD staff and the consultant in identifying and analyzing problems with the current Zoning Code. Next steps included drafting a diagnostic report on the current Zoning Code and then creating a series of problem statements. Throughout this process there were numerous opportunities for public involvement including: listening sessions, focus groups, task force meetings, and presentations to neighborhood groups and other organizations.
- Phase II August 2006 to September 2007: The Alternative Approaches Phase worked toward drafting the New Code. The Task Force explored other options but decided on a context-sensitive and form-based approach to zoning and held public work sessions and community meetings to introduce and refine residential neighborhood contexts. [a little more on how many – like including at least one in every Council District or whatever is accurate]
- Phase III September 2007 – The Drafting Phase was a joint effort by City staff, the Zoning Code Task Force, the City Council and Citizen Advisory Group to draft the code language and prepare the maps. A first draft of the New Code and the maps were made available for public review at the end of May, 2009. Subsequent drafts were released for public review in August, 2009; November, 2009; and January 2010. After each draft, comments from the Zoning Code Task Force, City Council and the public were addressed to improve the New Code language and map.
- Phase IV May 2009 – The Public Review and Adoption Phase began with the release of the first draft of the New Code language and map. Since May of 2009 over 200 meetings have been held with the general public, neighborhood and business groups, interest groups, individuals and advisory committees to review the New Code and map and gather comments.

NEW CODE ANALYSIS OF PROBLEM STATEMENTS

Throughout the process, we evaluated the Draft New Code based on upon the Problem Statements established by the Zoning Code Task Force in Phase 1 of the project. The following is an overview of how the New Code achieves these specific goals:

Goal 1. Vision and Code Alignment

- In Areas of Stability, the New Code facilitates desirable, compatible and needed development and encourages continued and adaptive use of existing structures.
- In Areas of Change, the New Code promotes the intensity and type of development recommended in Blueprint Denver while accommodating multi-modal development and the creation of the desired pedestrian environment.
- The context-based approach of the New Code focuses on encouraging the desired building types and forms rather than strictly regulating use.
- The New Code provides the necessary context and variety of zone districts to address transitions and adjacencies between Areas of Change and Areas of Stability through variations in form and density.
- The New Code and Map minimizes the mismatch in some neighborhoods between the current zoning and conditions of the stable neighborhoods.

Goal 2. Complexity and Consistency of Code Procedures

- The New Code offers consolidated, clear and consistent land use and development procedures. The New Code's format offers ease-of-use and clarity through improved organization and graphical illustrations. Streamlined provisions in the New Code will ease compliance, administration and enforcement.
- The New Code simplifies administrative procedures to direct growth to Areas of Change.
- The New Code's context-based approach and variety of zone districts reduces the need for inconsistent non-zoning development codes such as design guidelines and rules and regulations.
- The New Code through its context and form-based approach tailors the appropriate level of review for the type of development proposed.

Goal 3. Code Format and Usability

- The form-based approach to the New Code organizes and expresses regulations in a manner that is easy to use, interpret and enforce.
- The New Code organizes applicable standards and rules of measurement in common locations making it easy to locate relevant information.
- The New Code uses modern terminology and graphics and avoids unclear, outdated and conflicting language.
- The New Code is designed to be readable in both electronic and hard-copy formats.
- The New Code consolidates many regulations previously housed in numerous, separate documents.
- The New Code uses intent statements to define the purpose and goals of the various zoning regulations.

Goal 4. Sustainability and Affordability

The New Code addresses the recommendations of the Task Force **sustainability** audit by:

- Creating context-based parking requirements to promote Blueprint and Greenprint Denver goals for multi-modal transportation and environmental sustainability.
- Using the context-based approach to create opportunities for dense, walkable urban centers where public transportation is most readily available.
- Promoting development standards that minimize impacts to air and water quality.
- Responding to analyses of the solar access implications of the New Code.

The New Code addresses the recommendations of the Task Force **affordability** audit by:

- Recognizing the impact of transportation costs on housing affordability by reducing parking requirements for affordable housing.
- Creating opportunities to increase the supply and variety of housing options in areas that are the most unaffordable and closest to employment centers and public transportation.
- Allowing houses to be built on smaller lots.

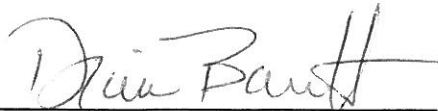
RECOMMENDATION

Therefore, the Zoning Code Task Force recommends adoption of the Planning Board Public Hearing Draft Dated March 31, 2010 with the following comments:

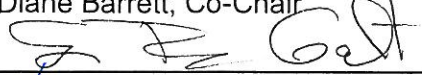
- Incorporate the Final Recommendations of the Business and Retail Working Group as set forth in their final document dated April 20, 2010
- Incorporate the recommended Code and Map changes as set forth in the Community Planning and Development supplemental list dated April 20, 2010

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SIGNATURES



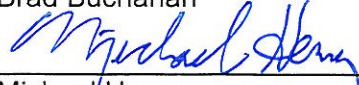
Diane Barrett, Co-Chair



Susan Barnes-Gelt



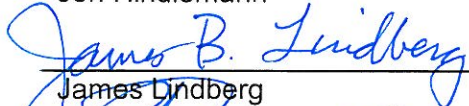
Brad Buchanan



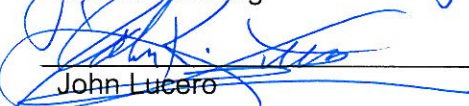
Michael Henry



Jon Hindlemann



James Lindberg



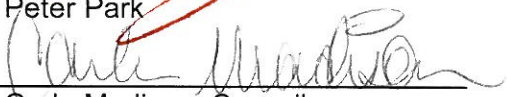
John Lucero



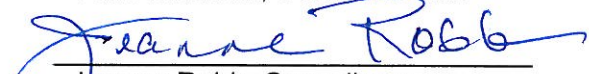
Steve Kaplan, Co-Chair



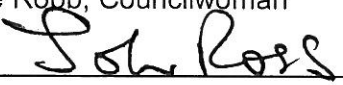
Peter Park



Carla Madison, Councilwoman



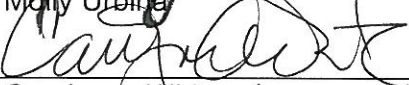
Jeanne Robb, Councilwoman



John Ross



Molly Urbine



Carolynne White



A.J. Zabbia

Zoning Code Update Problem Statements

These Problem Statements and Regulation Changes to Consider are derived from the August 2006 **Zoning Code Update Diagnostic Report**. The **Report** evaluates how well Denver's land use regulations support the implementation of Blueprint Denver and other planning documents intended to guide current and future growth.

(Page numbers refer to the Diagnostic Report.)

Problem Statement 1. Vision and Code Alignment

1. Current land use codes and regulations¹ do not advance the proactive implementation of Blueprint Denver and other adopted City plans.
 - a. In some Areas of Stability:
 - Current zoning standards do not facilitate desirable, compatible and needed development.
 - Current zoning standards do not encourage continued or adaptive use of existing structures.
 - b. In Areas of Change:
 - Current zoning standards often inhibit the intensity and type of development recommended in Blueprint Denver.
 - Current zoning standards often do not accommodate multi-modal development nor do they encourage creation of the desired pedestrian environment.
 - Mixed use zoning regulations often do not result in mixed-use development.
 - c. Denver's land-use codes and regulations focus primarily on regulating use rather than encouraging desired building types and form.
 - d. Current land use codes and regulations do not adequately address transitions and adjacencies - between Areas of Change and Areas of Stability; different zone districts; uses or densities.

Regulation Changes to Consider to Address Problem Statement 1:

- i. Create regulations that recognize and provide for different degrees of development patterns, ranging from very uniform to very diverse. Create

regulations that recognize the different degrees of standards derived from the existing and/or desired context, that address all basic dimensional elements such as access, mass, scale, setbacks, open space and solar orientation. (p. 6, 11-13,21-38)

- ii. Create regulations that resolve the conflict between desired compatible development in some Areas of Stability and current zoning standards in R-2 and R-3 zone districts. (p. 6, 11-13, 21 - 25)
- iii. Update the City's parking standards.
- iv. Create standards that address transitions between residential neighborhoods, embedded commercial districts, industrial districts and between Areas of Stability and Areas of Change. (p.7 & 39)
- v. Revisit and update non-residential, mixed use and business zone district regulations to achieve Blueprint Denver's development goals. (p. 55, 58)
- vi. Provide a broader range of zone districts to encourage the development of more diverse housing types. (p. 21)
- vii. Consider legislative rezoning where appropriate, to proactively and consistently avoid site-by-site zone changes that lengthen the time and cost of re-zoning and - when taken together - may limit implementing the City's land use plans. (p. 65).
- viii. Remove barriers to sustainable development practices and create standards that protect public health and the environment and that implement Greenprint Denver.
- ix. Repeal obsolete zone districts. (p. 58, 62, 64 & 87)
- x. Create regulations that prioritize pedestrian and transit friendly environments and help shape the desired "public realm". (p. 58, 97-98)

Problem Statement 2. Complexity and Consistency of Code Procedures

- 2. Land use and development procedures are numerous, complicated, and often inconsistent. Too many procedures and customized solutions make the Code difficult to use, understand, comply with, uniformly administer and enforce.

- a. Zoning procedures for Areas of Change - where Blueprint Denver directs growth - are too complex.
- b. Non-zoning land use development codes and zoning are sometimes inconsistent.
- c. The intensity of review is sometimes inappropriate for the complexity of issues under review.

Regulation Changes to Consider to Address Problem Statement 2:

- i. Standardize zoning procedures by addressing appropriate levels of review, approval criteria, public involvement and timing of reviews. (p. 26, 103 - 106)
- ii. Modify zoning processes and development review standards to maximize interdepartmental coordination and minimize jurisdictional problems. (p. 77, 103)
- iii. Make changes to improve the consistency and coordination between non-zoning land use development codes and zoning standards; e.g., landmark and view plane standards. (p. 103)
- iv. Reexamine the ability to rezone property that one does not own outside the context of legislative rezoning.

Problem Statement 3. Code Format and Usability

- 3. The size and complexity of land use development codes and zoning regulations make them difficult to use, comply with, understand and enforce.
 - a. Land use and development code and regulation language is not uniform, is often unclear and outdated, with standards that sometimes conflict.
 - b. Information is difficult to locate in both the hard copy and electronic land use development codes and regulations.
 - c. Regulations are inaccessibly housed in numerous separate documents.
 - d. Regulations are not consistently formatted.
 - e. Land use development codes and regulations lack intent statements defining the purpose and goals of the document.

Regulation Changes to Consider to Address Problem Statement 3:

- i. Combine all related standards in one place in the Code where possible; e.g. parking lot landscaping, landscaping and tree canopy, screening and streetscape guidelines. (p. 97-98)
- ii. Clarify zoning definitions, measurement standards and land use categories. (p. 92 & 101)
- ii. Add user-friendly tables of content, indexes and cross-references to the Zoning Code and related regulations. (p.83)
- iii. Add tables, graphics, and a consolidated land use matrix to the Zoning Code and related land use regulations. (p. 81 & 93)
- iv. Add intent statements to the Zoning Code and related regulations. (p. 77)
- v. Revise regulations to improve the public realm by making landscaping standards consistent, consolidating tree canopy protections into one location and modifying streetscape guidelines. (p. 97 – 98)
- vi. Update parking, lighting and sign standards. (p. 99 - 101)

¹ “Land use codes and regulations” refers to regulations associated with the Zoning Code and other chapters of the Denver Revised Municipal Code (Landmark Preservation, Chapter 30; Housing, Chapter 27, etc.), as well as additional documents related to land development (PUD / PBG Site Plan Rules and Regulations; Rules and Regulations for the Landscaping of Parking Areas; Design Guidelines, etc.)