



# Special Policy Committee Meeting

Rezoning Process and Criteria

March 4, 2020

# Agenda

1:00 - 1:30	Welcome and Introductions
1:30 - 1:40	Overview of goals for today and CPD's work
1:40 - 2:20	Staff presentation
2:20 - 2:30	Break
2:30 - 3:45	Discussion and ideas for improvement
3:45 - 4:00	Next Steps

# Introductions

# Denver Planning Board

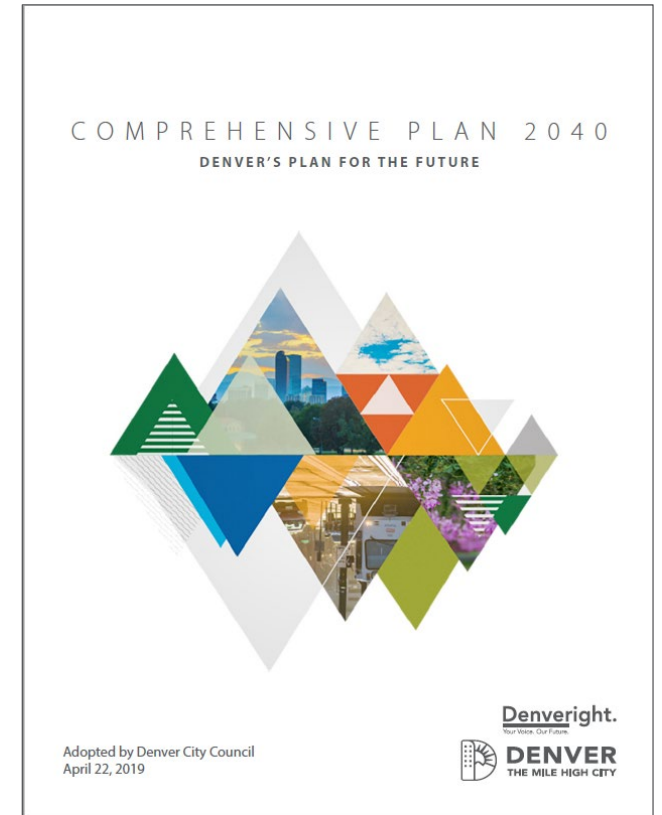
- 11 total members
- Appointed by the mayor
- Aim for demographic and geographic diversity, as well as a variety of perspectives and disciplines, including:
  - Community members
  - Affordable housing experts
  - Architects/designers
  - Developers
  - Realtors

# Goals for Today

- Continue conversation from City Council's November 6<sup>th</sup> Policy Committee meeting
- Understand how the rezoning criteria and process relate to citywide goals for equity and climate change
- Discuss concerns with existing approach and potential improvements
- Proposal for quarterly work session with CPD to address additional topics such as:
  - Large Development Review (LDR)
  - Site Development Plans (SDP)
  - ADUs

# Overview of CPD's Work

# Our Values



# What are we doing to advance equity?



- Equity training for staff
- Piloting community navigators for West Area NPI plan
- 2020 pilot program to expedite permit review for affordable housing projects
- Adopted new landmark and historic district criteria to include culture
- Much more related to rezoning and the zoning code that we will highlight later



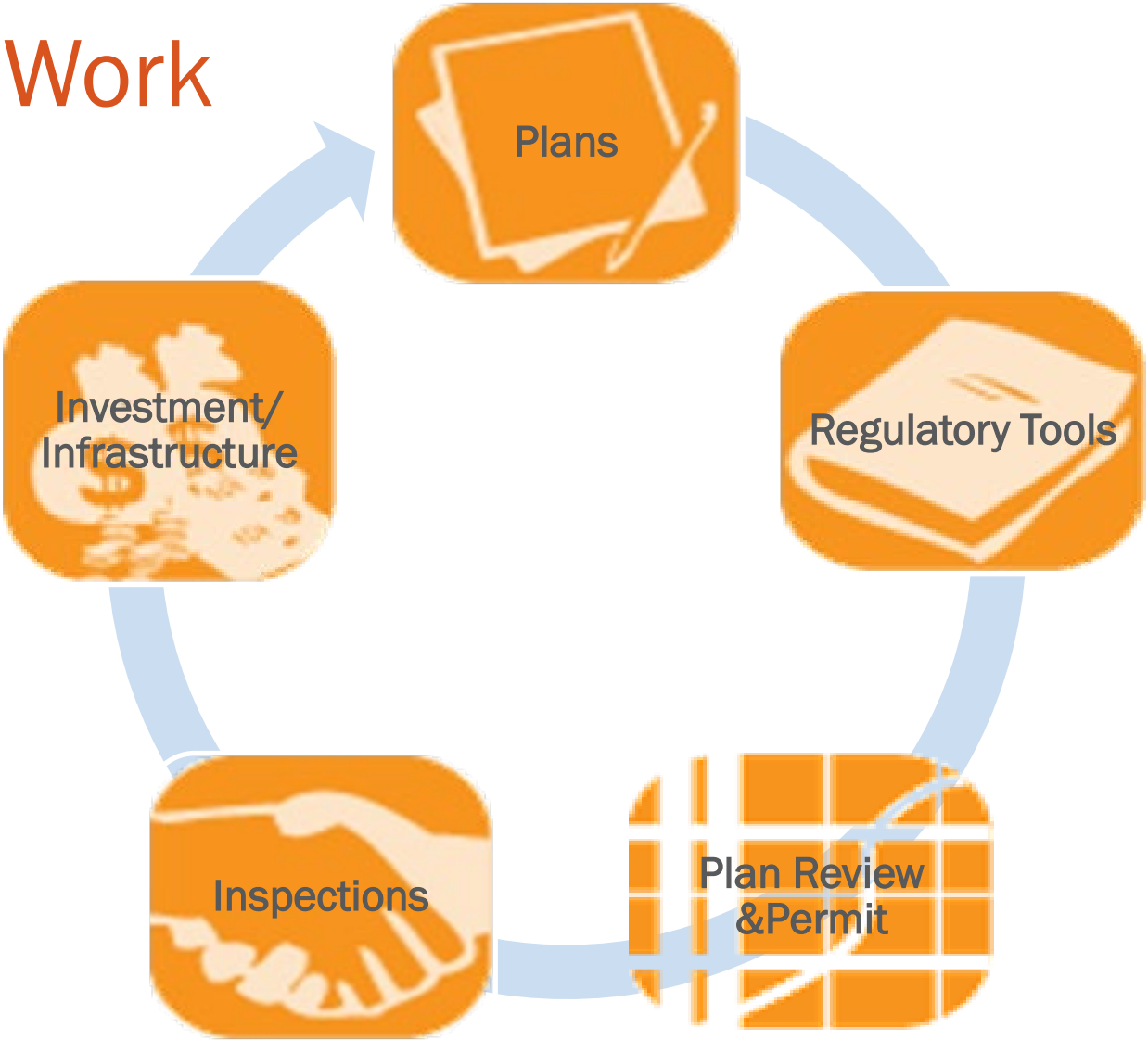


# What are we doing to address climate change?

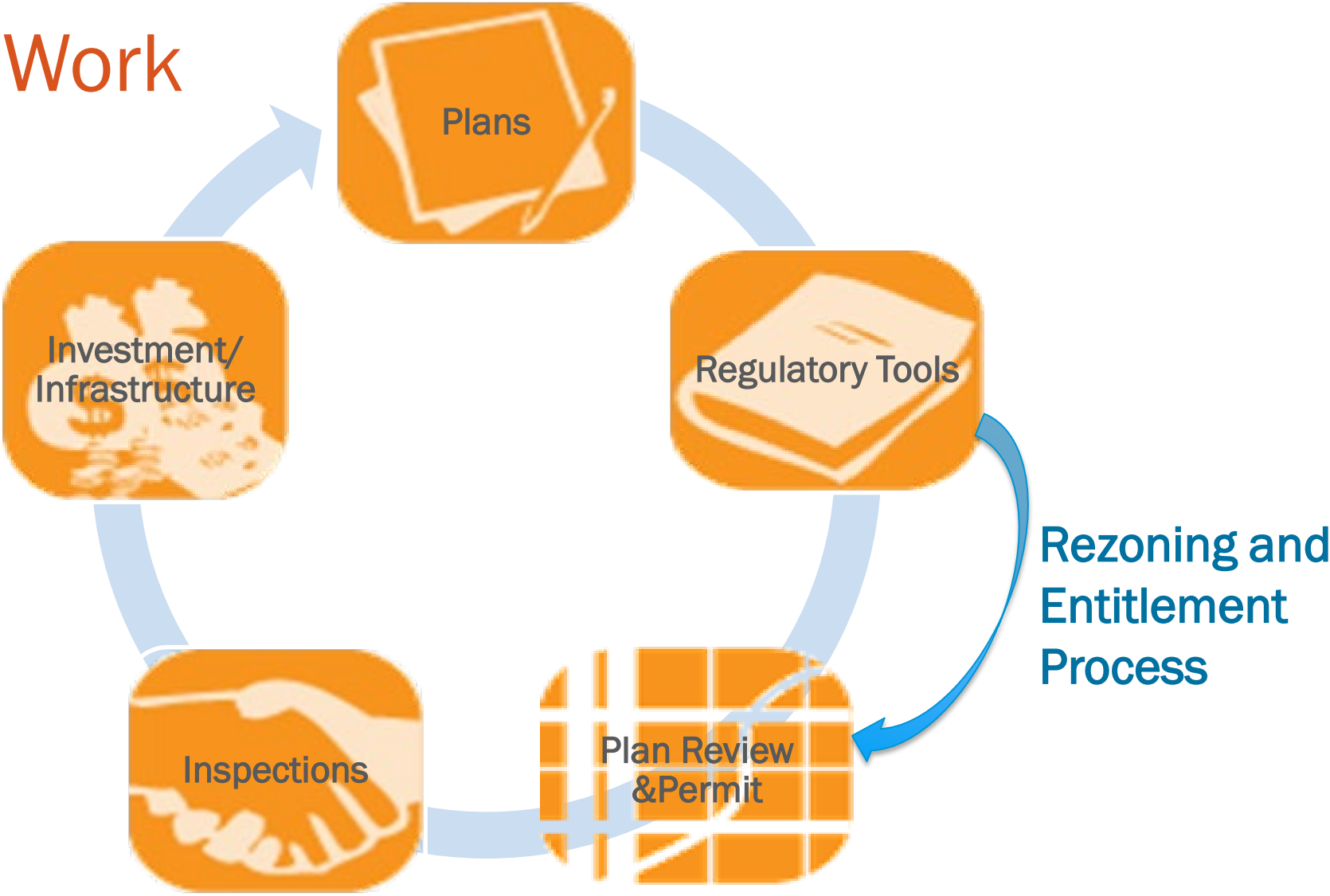
- Green Building Code adopted in 2018
- Pilot program to expedite permit review for green building projects
- 2019: adopted zoning regulations for all sites over 5 acres to provide a minimum of 10% open space
- Partner with DOTI on key initiatives to achieve mode shift goals, including:
  - Implementation of Denver Moves plans
  - Transportation Demand Management (TDM) program

# Rezoning and entitlement process overview

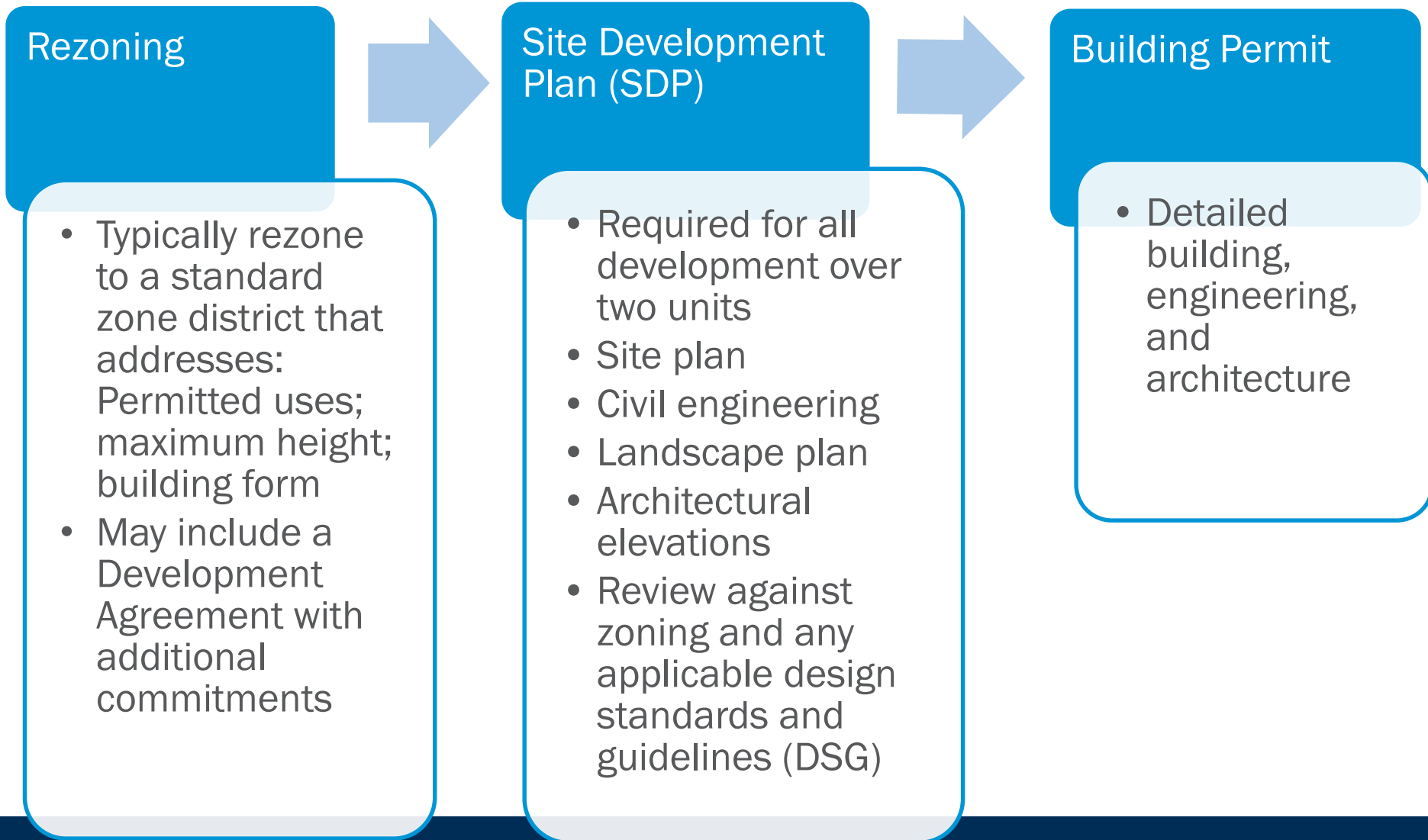
# Cycle of CPD's Work



# Cycle of CPD's Work



# Rezoning and Entitlement Process



# Rezoning and Entitlement Process

First step of SDP is a Concept Plan

- The applicant shares the proposed site plan and receives input from multiple departments about issues that could affect the design and feasibility of the project

## Rezoning

- Typically rezone to a standard zone district that addresses:  
Permitted uses;  
maximum height;  
building form
- May include a Development Agreement with additional commitments

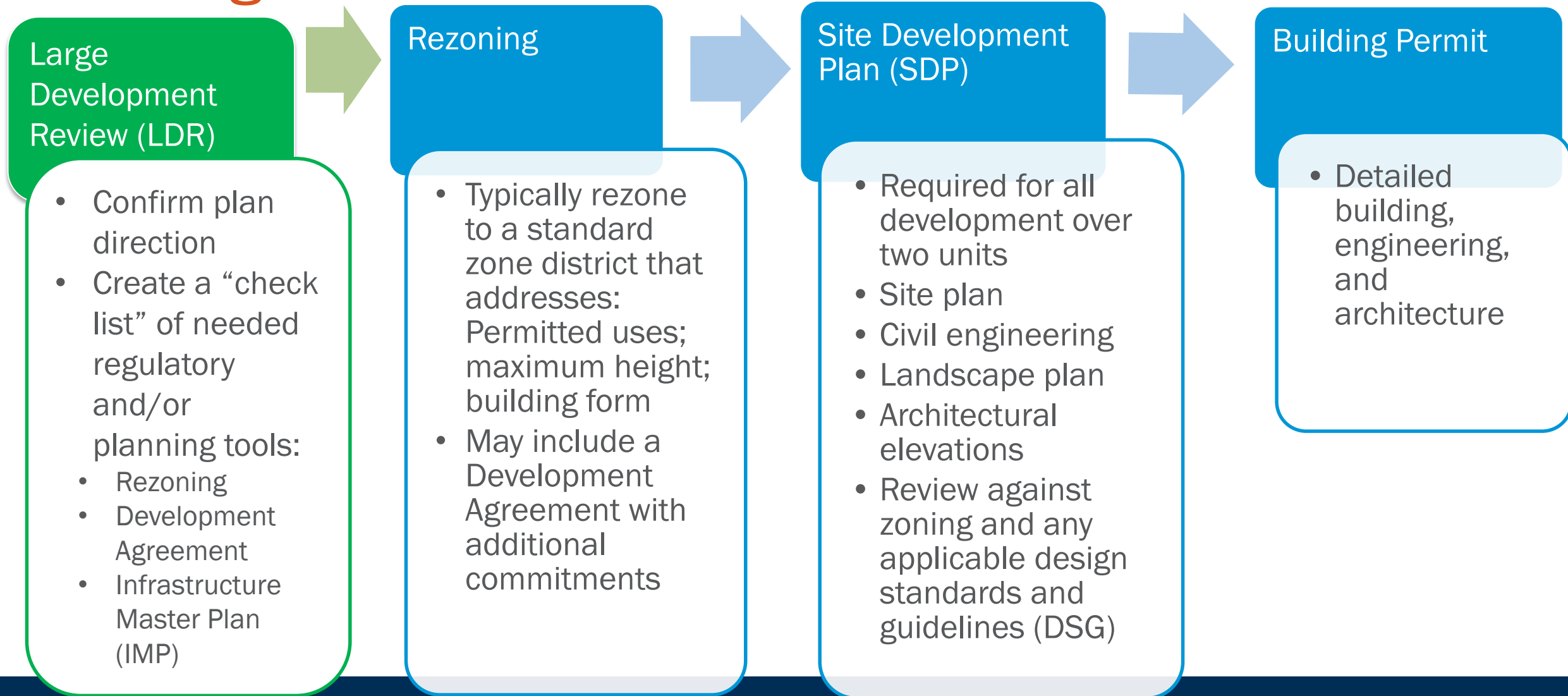
## Site Development Plan (SDP)

- Required for all development over two units
- Site plan
- Civil engineering
- Landscape plan
- Architectural elevations
- Review against zoning and any applicable design standards and guidelines (DSG)

## Building Permit

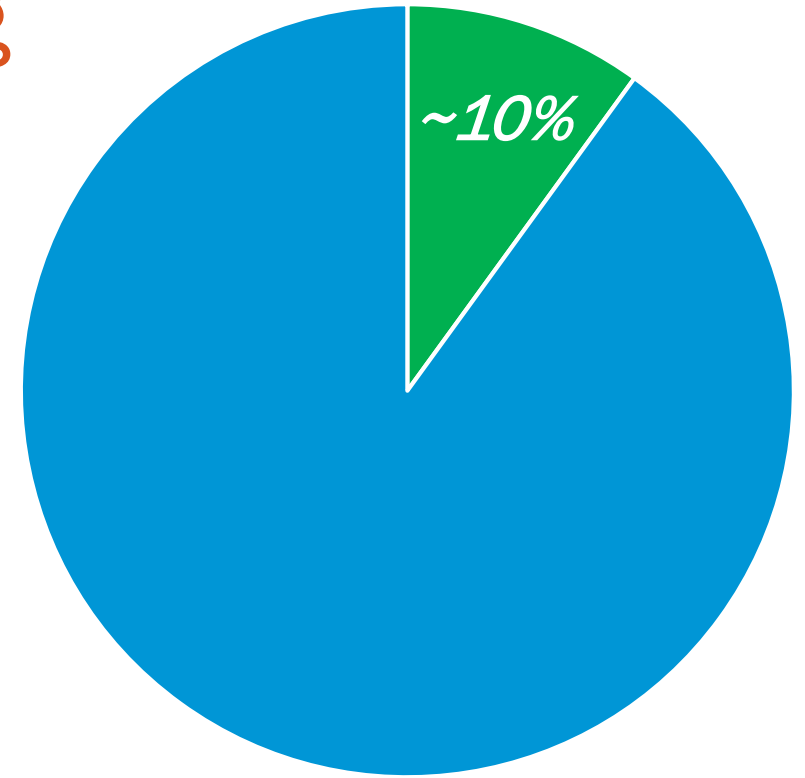
- Detailed building, engineering, and architecture

# Rezoning and Entitlement Process



# As-of-right Development vs. Rezoning

- The majority of development in Denver is “as-of-right,” which means rezoning is not required for the project
- Average of ~300 approved SDPs per year from 2017-2019
- About 10% of those required rezoning before SDP



*On average about 10% of Site Development Plans (SDPs) start as a rezoning*



# Rezoning Process

- Step-by-step guide that provides a full overview of the rezoning process available at [www.denvergov.org/rezoning](http://www.denvergov.org/rezoning)
- **Typical applicants:**
  - Landowners – usually do not develop the property themselves
  - Developers
  - Owner's representatives

# Rezoning Process

## Pre-application meeting

- No-cost meeting to explore options and learn about the process
- Staff tells all pre-applicants do to community outreach and contact council offices
- Contact with council office should be done prior to formal application to protect the integrity of the quasi-judicial process
- CPD/HOST/NEST/CAO review for a potential voluntary affordable housing commitment
- Council office can now see all pre-applications with contact info in MapIt Denver

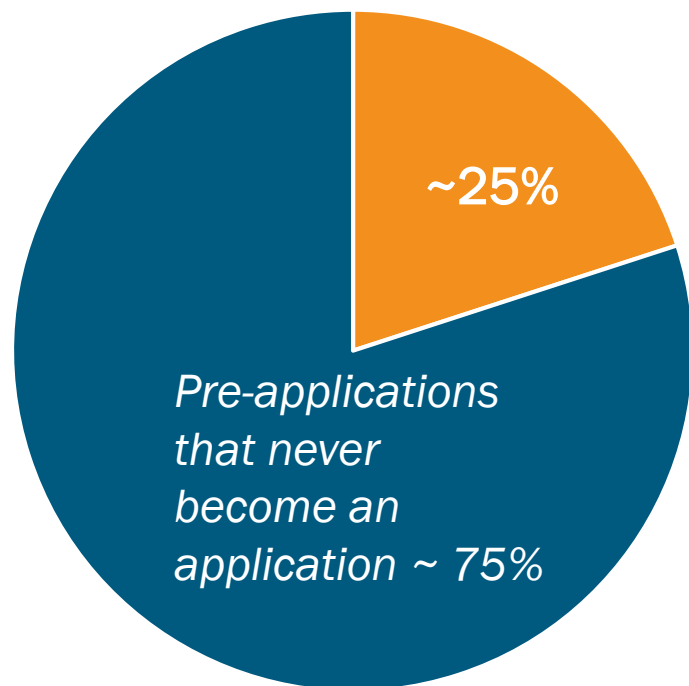
# Required Materials for Rezoning Application

- Requested zone district
- Written explanation of how the proposed rezoning meets the rezoning criteria in the code
- Legal description
- Proof of ownership
- Required fees
  - \$1,000 for 1 acre or less. \$500 for each additional acre
  - No fee if rezoning from old code to new code

# Notification Requirements

- **Application:** email to city council, RNOs within 200 ft, and postcard mailed to property owners within 200 ft
- **Planning Board Hearing:** same as above, plus applicant posts signs on the property
- **LUTI Committee:** email to city council and RNOs within 200 ft
- **City Council Hearing:** email to city council and RNOs within 200 ft, applicant posts signs on property, city clerk publishes legal notice in Daily Journal

# Rezoning Stats



On average about 25% of rezoning pre-applications proceed to an actual map amendment application

40

Average number of rezoning applications per year (2017-2019)

# Current zoning vs. old zoning code

# Old Zoning Code (“Former Chapter 59”)

- **Outdated:** written in 1956; piecemeal updates over time
- **Format:** short menu of standard zone districts organized by land use: commercial (B-1, B-2, etc.) residential (R-1, R-2, etc.)
- **Vision mismatch:** the code did not match the community’s vision for Denver neighborhoods. Examples:
  - Lots of strip malls with parking lots next to the sidewalk
  - Mixed-use development not allowed in many places
- **One-size-fits all** approach
  - Almost all residential neighborhoods – in suburban areas and close to downtown – had the same zone district (R-1 or R-2)



# Old Zoning Code: B-2 Zone District



Not allowed



Allowed



# Denver Zoning Code (adopted 2010)

- Created a variety of zone districts that better reflect the community's vision, our plans, and the diversity of Denver's neighborhoods
- Format: much larger menu of possible zone districts organized by different neighborhood contexts



Suburban



Urban Edge



Urban



General Urban



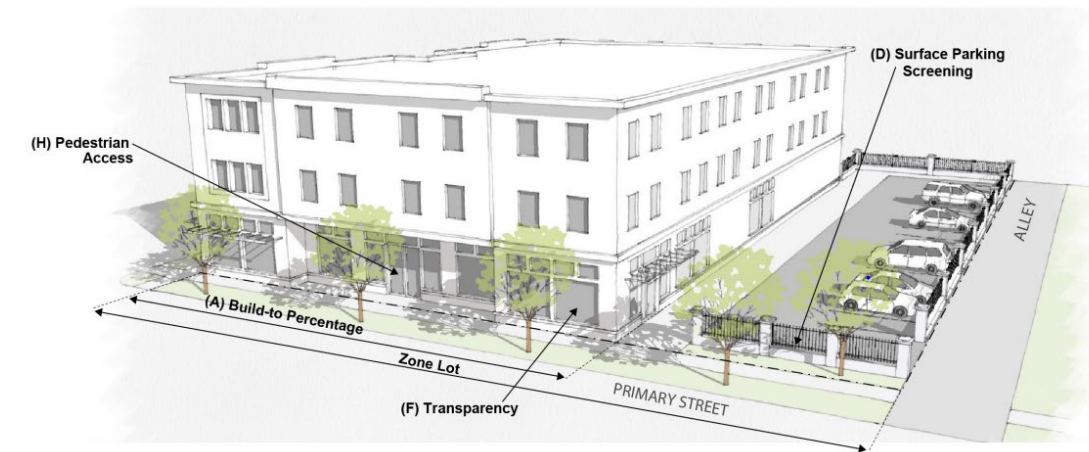
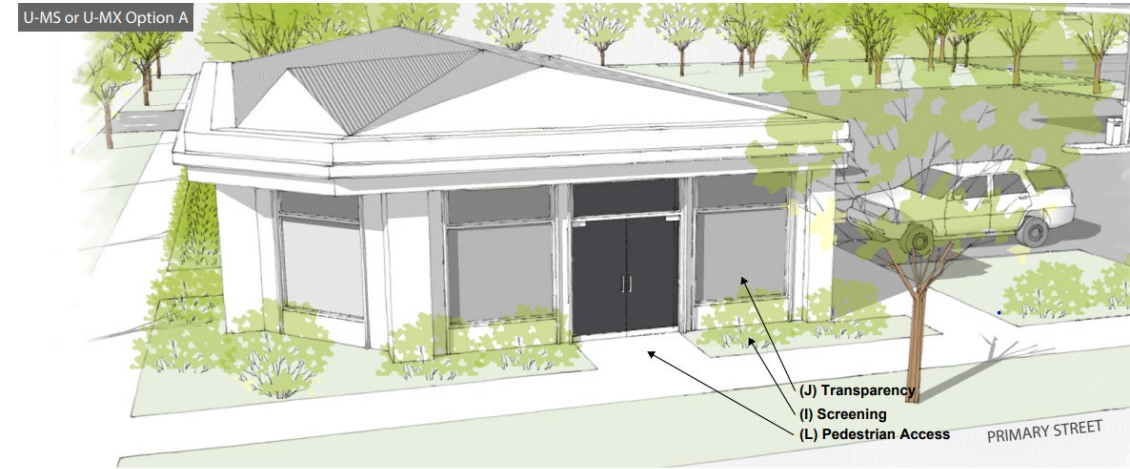
Urban Center



Downtown

# Denver Zoning Code (adopted 2010)

- Added “form-based” components to create more pedestrian-friendly design that respects the public realm
  - Build-to: require buildings close to the sidewalk, rather than parking in front
  - Transparency (windows) along the sidewalk
  - Clear maximum building height in stories



# Old Zoning Code: Rezoning Process

- The process and application requirements were very similar to today's code
  - Applicants could apply for a standard zone district (e.g. B-2 or R-1) or site-specific custom zoning like PUDs
- A specific site plan/development proposal was *not* required as part of a standard rezoning application
  - PUDs typically included a specific, detailed site plan

# Old Zoning Code (pre-2010)

The majority of rezonings were site-specific, customized zoning (PUDs or a zone district with waivers and conditions). Challenges:

- **Inflexibility:** regulations in PUDs and Waivers & Conditions often become outdated and the only way to change those regulations is to rezone
- **Difficult to administer over time:** challenging to track and understand many different rules for multiple properties throughout the city
- **Unpredictable rezoning process:** for applicants and the community

# Denver Zoning Code (adopted 2010)

- Reduced the need for site-specific, customized zoning
- Custom zoning is still an option
  - **PUDs:** General PUDs in DZC are tied to a standard zone district and to allow for flexibility over time
  - **Waivers:** often used as a bridge to a future text amendment
  - **Overlays:** design and conservation overlays that are tailored to unique areas

# Review current rezoning criteria



# Current Rezoning Criteria (Section 12.4)

The following criteria apply to all non-legislative (applicant driven) map amendments:

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare
4. Justifying Circumstances
5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

# Current Rezoning Criteria

## **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.



# Current Rezoning Criteria

## Justifying Circumstances

One of the following circumstances exists:

1. The existing zoning of the land was the result of an error;
2. The existing zoning of the land was based on a mistake of fact;
3. 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;
4. 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:
  - a. Changed or changing conditions in a particular area, or in the city generally; or,
  - b. A City adopted plan; or
  - c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.
5. 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.

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Most often used.  
Updated in 2018:

- Clarified (a): simpler language & change can be at citywide scale
- Added (b) and (c)

# Consistency with Neighborhood Context & Zone District

## 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.

### DIVISION 7.1 NEIGHBORHOOD CONTEXT DESCRIPTION



#### SECTION 7.1.1 GENERAL CHARACTER

The Urban Center Neighborhood Context consists of multi-unit residential and mixed-use commercial strips and commercial centers. Multi-unit residential uses are typically in multi-story mixed use building forms. Commercial buildings are typically Shopfront and General forms. Multi-unit residential uses are primarily located along residential collector, mixed-use arterial, and local streets. Commercial uses are primarily located along main and mixed-use arterial streets.

#### SECTION 7.1.2 STREET, BLOCK AND ACCESS PATTERNS

The Urban Center Neighborhood Context consists of a regular pattern of block shapes surrounded by an orthogonal street grid. Orthogonal streets provide a regular pattern of pedestrian and vehicular connections through this context and there is a consistent presence of alleys. Block sizes and shapes are consistent and include detached sidewalks, tree lawns, street and surface parking, and landscaping in the front setback.

#### SECTION 7.1.3 BUILDING PLACEMENT AND LOCATION

All building typically have consistent orientation and shallow front setbacks with parking at the rear and/or side of the building.

#### SECTION 7.1.4 BUILDING HEIGHT

The Urban Center Neighborhood Context is characterized by moderate to high building heights to promote a dense urban character. Lower scale structures are typically found in areas transitioning to a less dense urban neighborhood.

#### SECTION 7.1.5 MOBILITY

There are high levels of pedestrian and bicycle use with the greatest access to multi-modal transportation system.

### SECTION 7.2.2 MIXED USE DISTRICTS (C-MX-3, -5, -8, -12, -16, -20)

#### 7.2.2.1 General Purpose

- A. The Mixed Use zone districts are intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge.
- B. The Mixed Use zone districts are intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods.
- C. The Mixed Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods.
- D. Compared to the Main Street districts, the Mixed Use districts are focused on creating mixed, diverse neighborhoods. Where Main Street districts are applied to key corridors and retail streets within a neighborhood, the Mixed Use districts are intended for broader application at the neighborhood scale.
- E. In the Urban Center Neighborhood Context, the Mixed Use zone districts require the same level of pedestrian enhancements as the Main Street zone districts. In the Urban Center Neighborhood Context, the primary difference between the Mixed Use zone districts and the Main Street zone districts is Main Street districts mandate shopfront buildings at the street edge.
- F. Mixed use buildings have a shallow front setback range. The build-to requirements are high.

#### 7.2.2.2 Specific Intent

- A. **Mixed Use – 3 (C-MX-3)**  
C-MX-3 applies to areas or intersections served primarily by local or collector streets where a building scale of 1 to 3 stories is desired.
- B. **Mixed Use – 5 (C-MX-5)**  
C-MX-5 applies to areas or intersections served primarily by collector or arterial streets where a building scale of 1 to 5 stories is desired.
- C. **Mixed Use – 8 (C-MX-8)**  
C-MX-8 applies to areas or intersections served primarily by arterial streets where a building scale of 2 to 8 stories is desired.
- D. **Mixed Use – 12 (C-MX-12)**  
C-MX-12 applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 12 stories is desired.
- E. **Mixed Use – 16 (C-MX-16)**  
C-MX-16 applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 16 stories is desired.
- F. **Mixed Use – 20 (C-MX-20)**  
C-MX-20 applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 20 stories is desired.

# Concerns from Council about existing process/criteria

- **Vision alignment:** The connection between rezoning criteria and the vision of Comprehensive Plan 2040 is not clear enough
  - Desire for a stronger tie to **equity** and **climate change** in particular
- **Cumulative impact:** concern that site-by-site rezonings do not address overall impacts on the surrounding neighborhood, including traffic, transit investments to complement growth, and the need for affordable housing
- **Speculative rezonings:** for some rezoning applications, applicants receive an upzoning but City Council and the community do not fully understand what will be built and what the impacts might be

# Overview of peer city research



# Peer City Research

## Researched cities similar to Denver:

- Similar in size/population
- Experiencing rapid growth
- Recently adopted comprehensive plans with equity goals

## Important considerations:

- Many of our peer cities are in states with much stronger requirements for comprehensive planning and impact analysis, which provides more direction to assess the impact of proposed rezonings and development

# Peer City Research – Rezoning Criteria

	Consistency with Comprehensive Plan/Future Land Use Map	Uniformity of District Regulations	Changed Conditions	Public health, safety and welfare	Consistency with Zone District	Compatible with surrounding area	Impact Evaluation / Adequacy of public services
Denver	✓	✓	✓	✓	✓		
Austin	✓	✓	✓			✓	
Portland	✓						✓
Salt Lake City	✓				✓	✓	✓
Seattle	✓		✓			✓	✓

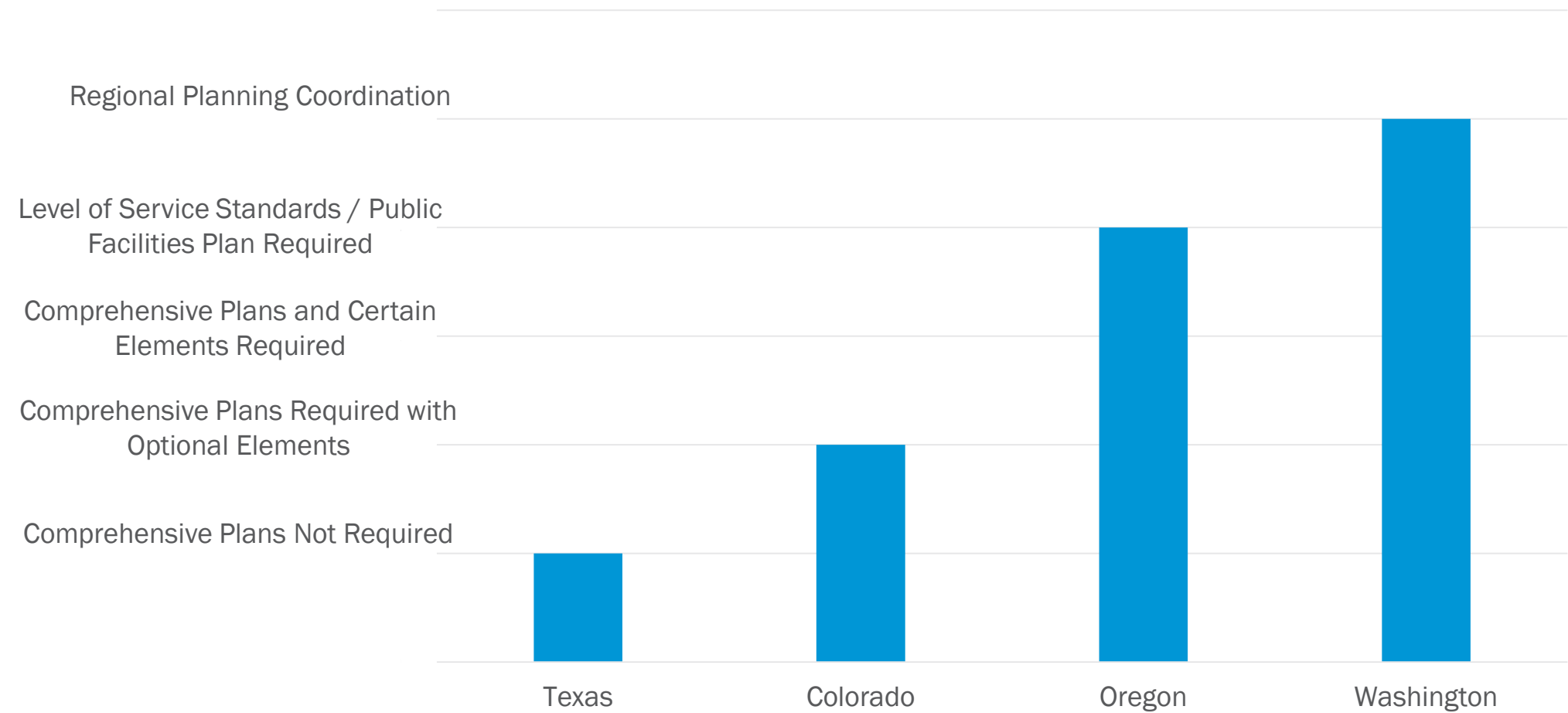
# Peer City Research – Rezoning Process

	Pre-Application Meeting Required	Application Requirement – Impact Studies	Staff Report Includes Impact Analysis	Fees	Required to have a Site Plan/Project as part of Rezoning?
Denver	✓			\$1,000 plus \$500 per acre in excess of 1 acre	No
Austin		✓	✓	<0.25 acres \$7,239.44; <0.5 acres \$7,655.44; <1 acre \$8,279.44	No
Portland	✓	✓	✓	\$5,880 (Land Use and Building fee); Total \$16,698	No
Salt Lake City				\$1,034 plus \$121 per acre in excess of 1 acre	No
Seattle	✓			\$7,880 (minimum and covers first 20 hours of work)	No



# State Regulations for Comprehensive Planning

## State Regulations – Comprehensive Plans



# Potential changes

# Potential Improvements

Categories:

Already  
Happening

Coming Soon

New Ideas:  
Short Term

New Ideas:  
Long Term

Focus on **Quick to Implement** and/or **Greatest Impact**

- The majority of development in Denver is “as-of-right,” which means rezoning is not required for the project
- More impact on development with changes to zoning code that applies to all development, rather than rely on site-by-site rezonings

# Applying Blueprint Equity Concepts to Large Rezoning

Already  
Happening

- Briefed City Council on this Nov-Feb
- At time of pre-application, rezonings 5+ acres will receive scores on all indicators in the Blueprint equity concepts and be asked to address lower scores in their application
- Scoring on equity indicators will be included in staff reports and presentations to Planning Board and City Council



# Affordable Housing Agreements with Rezoning

Already  
Happening

- In early 2019, with anticipated adoption of Blueprint Denver, started asking more rezoning applicants for affordable housing agreements
  - Due to state law, agreements must be voluntary
  - Created a housing coordination team including CPD, HOST, NEST and CAO

# Legislative Rezoning

Already  
Happening

- City Council members can partner with CPD to initiate legislative rezonings that implement plan goals
  - Examples: CM Sandoval exploring rezoning of an entire neighborhood to allow ADUs; CM Black leading rezoning of Hampden for better design outcomes
  - These efforts still require significant staff support from CPD, but less staff than for a major text amendment

# Major Text Amendments

Coming Soon

## Text amendments to the Denver Zoning Code

Most impactful method to see change across the city since it changes the rules for all development – not just sites that rezone – especially since ~90% of development happens without a rezoning

- **Affordable Housing Zoning Incentive:** encourage private development to include affordable housing along BRT corridors and near transit stations
- **Residential Infill:** better design and more housing options (including ADUs) in low density neighborhoods

# Cumulative Impact and Transportation Needs

Coming Soon

- **Transportation Demand Management (TDM):** DOTI leading major citywide regulations that will require development of certain thresholds to include measures to reduce vehicle trips (e.g. shared parking; car share; free RTD passes for residents, etc).
- **Technical Analysis in Neighborhood Plans:** future NPI and small area plans will include more technical analysis to better inform infrastructure needs
  - Could lead to more detailed recommendations about needed infrastructure to support growth, which can also be part of rezoning analysis under “consistency with adopted plans”



# Cumulative Impact and Transportation Needs

Coming Soon

- **I-25/S. Platte River Planning:** multi-discipline planning effort to understand potential growth and cumulative impacts of development along the I-25/S. Platte River corridor. Planned to begin in 2021
  - Includes comprehensive analysis of baseline and future growth and the needed infrastructure, including transportation/mobility, water, open space and public amenities
  - Will also address equity and affordable housing needs

# New Ideas

# Changes to Rezoning Application

New Ideas:  
Short Term

**Questions about equity and climate change:** revise rezoning application to include questions for the applicant to answer about how their proposed rezoning advances the city's goals for equity and climate change

# Changes to Rezoning Application

New Ideas:  
Short Term

**Encourage Concept Plan Review:** encourage applicants to complete a concept review meeting (first phase of Site Development Plan – SDP) prior to submitting their rezoning application

- Recommend at time of pre-application
- Add question to rezoning application to confirm if they had a concept review meeting
- This would not apply to small rezonings, such as individual ADU rezonings or anything under two units

# Changes to Rezoning Application

New Ideas:  
Short Term

If no Concept Plan review, then maximum build-out analysis: as part of rezoning application, ask applicant to evaluate potential maximum build-out

- Staff could provide common assumptions/parameters for average unit size, parking spots provided, etc. for consistency
- The applicant's analysis would be included in the referral to other agencies – such as DOTI and DDPHE --- so they can use the information to inform their review of the application

# Changes to Rezoning Application

New Ideas:  
Short Term

**Raise rezoning application fees:** Denver's rezoning fees are low compared to other cities

- Would need to explore thresholds so that small sites, homeowners and mom-and-pop applicants are not disproportionately burdened
- Could also explore fee reduction or waiver for applications that include an affordable housing commitment

**Changing rezoning criteria or rezoning process:** this would entail an amendment to the Denver Zoning Code

- Typically 18-24 month process
- Significant public input
- Large FTE commitment from CPD: most text amendments involve a team of staff for 18-24 months

# Planning Changes

New Ideas:  
Long Term

- **Strategic Transportation Plan (STP):** DOTI will kick off in 2020. Includes building a transportation model for the entire city to understand where we need infrastructure improvements based on projected growth in different areas
- **One Water Plan:** DOTI has already kicked off. Will identify areas of the city that need major stormwater improvements
- Both of the above plans will provide analysis of specific infrastructure needs. We could update Blueprint Denver/policy to ensure rezonings are evaluated in concert with the recommended improvements identified in these plans.



# Break

# Discussion

# Next Steps