



TO: Denver Planning Board
FROM: Jason Morrison, AICP, Associate City Planner
DATE: April 11th, 2018
RE: Denver Zoning Code – Mailed Rezoning Notice Text Amendment #1

Staff Report and Recommendation

The Denver Planning Board will consider the proposed Mailed Rezoning Notice Text Amendment at a public hearing on April 18th, 2018, and recommend to the Denver City Council whether to approve, approve with conditions, or deny the text amendment. A redline of the proposed text amendment is available on the Community Planning and Development (CPD) website (please see link below) and is also included as a supplement to this staff report. The proposed text amendment to the Denver Zoning Code is sponsored by Councilman Rafael Espinoza.

Based on the review criteria for text amendments stated in the Denver Zoning Code (DZC), Section 12.4.11 (Text Amendment), CPD staff recommends that the Planning Board recommend to the Denver City Council approval of the Mailed Rezoning Notice Text Amendment #1 to the Denver Zoning Code.

Summary and Purpose

In keeping with the CPD goals of transparency and outreach, the proposed Mailed Rezoning Notice Text Amendment adds a requirement for mailed notice to be sent to property owners within a 200-foot radius of a property to be rezoned. Currently, when CPD receives a complete rezoning application, staff send notification to the following parties, first at the time the application is received and again ahead of the Planning Board public hearing on the rezoning:

1. The city council members in whose district the subject property is located
2. The at-large city council members
3. Registered neighborhood organizations registered according to the Denver Revised Municipal Code (D.R.M.C.) Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed rezoning

This proposal, if approved, would require CPD to also notify by mail all real property owners within 200 feet of the proposed rezoning, both at the time the application is received and again at least 15 days before the Planning Board public hearing on the rezoning.

<http://www.denvergov.org/textamendments>

Public Process

Below is a summary of the public process for the proposed Mailed Rezoning Notice Text Amendment:

February 15 th , 2018	CPD updated website with a summary of proposed text amendment and provides direction on where to submit comments/questions during the process
February 24 th , 2018	CPD attended Inter-Neighborhood Cooperation (INC) Zoning and Planning Committee for briefing with the sponsor
March 19 th , 2018	Summary of text amendment and redline 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
April 2 nd , 2018	CPD written notice of the Planning Board public hearing sent to all members of City Council and registered neighborhood organizations
April 18 th , 2018	Planning Board public hearing
May 8 th , 2018	Land Use, Transportation, and Infrastructure Committee of the Denver City Council meeting (tentative)
June 18 th , 2018	City Council public hearing (tentative)

As of the date of this staff report, CPD has received 3 public comment emails:

- One email is in support of the amendment from the INC Full Delegation
- One email is in support of the amendment from the Overland Park Registered Neighborhood Organization
- One email is in support of the amendment from a private property owner residing in Denver

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:

A. Text Amendment is Consistent with the City’s Adopted Plans

The proposed Mailed Rezoning Text Amendment is consistent with the City’s following adopted plans, strategies and policies:

- Denver Comprehensive Plan 2000
- Blueprint Denver

Denver Comprehensive Plan 2000

The following strategies from Denver Comprehensive Plan 2000 apply to the proposed text amendment:
 Land Use:

- Strategy 2-A: “Initiate comprehensive review and detailed revision of the Denver Zoning Ordinance and related components of the land-use regulatory system. The process should

balance the perspectives of citizens, neighborhoods, businesses, developers and City agencies. The proposed revisions should ensure that the Denver Zoning Ordinance will be responsive to the needs for timely communication with parties affected by zoning procedures.”

Neighborhoods

- Strategy 2-A: “Develop and implement a comprehensive communications plan that outlines roles and responsibilities of City agencies, neighborhood organizations, residents, community institutions and businesses potentially affected by proposed actions.”
- Strategy 2-B: “Take a leadership role in developing a mutually responsive communications network among City agencies, neighborhood groups, citizens, community institutions and businesses to identify neighborhood concerns and to address them openly, thoughtfully and fairly.”
- Strategy 2-C: “Enable citizens to share information and interact with City agencies by using up-to-date communication technologies. Ensure on-line access to City services and information for people without computers by making interactive communications technology available at libraries, schools and other public places.”

The Mailed Rezoning Notice Text Amendment #1 is consistent with the Comprehensive Plan as the proposed language enhances communication between the City and those parties potentially affected by this type of zoning procedure. More importantly, this Text Amendment establishes those lines of communication early in the process, therefore reinforcing transparency and improving outreach to address concerns and feedback in an open, thoughtful and fair manner.

Blueprint Denver 2002

Blueprint Denver acknowledges that in some cases it may be appropriate to change the zoning in an area to create a better match between existing land uses and the zoning. The plan also stresses the importance of integrating a thoughtful public involvement strategy into the planning process. Further, Blueprint Denver stresses that, “[a] successful public involvement strategy includes a wide range of mechanisms for people to share their ideas, questions and concerns...[and] should inform a broad variety of citizens, provide ample opportunities for participants to provide feedback, and give more involved citizens an opportunity to interact directly in the process.” (p. 148)

As proposed, this text amendment introduces another opportunity for interested community members to provide feedback and encourages citizen involvement during the early stages of the rezoning process, which implement plans. As proposed, the text amendment will improve citizen engagement in an efficient, effective and timely manner.

B. Text Amendment Furthers the Public Health, Safety and General Welfare

The proposed text amendment furthers the public health, safety, and welfare of Denver residents, land owners, and businesses by reinforcing transparency and encouraging active citizen participation in the rezoning process.

C. Text Amendment Results in Regulations that are Uniform with Each Zone District

The mailed notice that property owners will receive as a result of this proposed text amendment is uniform across each zone district. Moreover, the proposed text amendment is an improvement to encourage citizen involvement during the early stages of the rezoning process regardless of which zone district the subject property is located.

Attachments

1. Redline Draft of Mailed Rezoning Notice Text Amendment #1
2. Public Comment Received To-Date



Mailed Rezoning Notice Text Amendment #1 Planning Board Review Redline Draft 04/11/2018

This document contains a redlined draft of the Proposed Mailed Rezoning Notice Text Amendment #1 which was released for public comment on 03/19/2018. The proposed Text Amendment adds a requirement for mailed notice to be sent to property owners within a 200-foot radius of a property to be rezoned, both at the time the application is received and again ahead of the Planning Board public hearing on the rezoning. The goal of the proposed Text Amendment is to improve notification for neighbors during the rezoning process.

The Planning Board Public Hearing is scheduled for 04/18/2018.

Redline Draft Conventions:

- Text to be deleted is shown in ~~red strikethrough~~
- Text to be added is shown in red underline
- Additional pages with no proposed changes are included in the Public Review Draft to provide relevant context to the proposed amendments.
- Items related to page numbers, page headers, graphics, cross references, figure numbers and other related items may be incorrect and will be corrected when the final amendment is “cleaned” for filing. Please do not focus your comments on correcting these matters.
- Additionally, please note that coordination will continue throughout the process to ensure constancy of approach and administration with other ongoing text amendments.

For more information on the proposed text amendment, please visit www.denvergov.org/textamendments

Please send all questions and comments to PlanningServices@denvergov.org.

WRITTEN COMMENTS WILL BE DISPERSED AS FOLLOWS:

Written comments received by 5 p.m. 9 days prior to the Planning Board Public Hearing will be attached to the staff report that is provided to the Board. Written comments received after that time and prior to 12 p.m. (noon) on the day before the Hearing will be emailed regularly to the Board; hard copies of these comments also will be distributed to the Board at the Hearing. Written comments received after 12 p.m. (noon) on the day before the Hearing will not be distributed to the Board; to ensure these comments are considered by the Board, please submit them to the Board during the Hearing.

ALL INTERESTED PERSONS AND ORGANIZATIONS SHOULD EXPRESS THEIR CONCERNS OR SUPPORT AT THE PLANNING BOARD HEARING AND AT THE PUBLIC HEARING BEFORE CITY COUNCIL.

Planning Services
Community Planning and Development
201 W. Colfax Ave., Dept. 205 | Denver, CO 80202
www.denvergov.org/CPD
p. 720.865.2983

rezoning land into a new zone district be approved until the text amendment creating the new zone district is approved.

12.3.3.10 Modification of a Pending Application

With the Manager's approval, a pending application may be modified at the applicant's request at any time before public notice of a public hearing, as applicable, is given. After public notice for a public hearing has been given, the applicant may request modifications to the application at the public hearing, which the review- or decision-making body may accept as conditions of approval.

12.3.3.11 Withdrawal of Pending Applications

- A. Except where otherwise expressly provided (e.g., see Section 12.3.3.12, Inactive Applications), only the applicant may withdraw an application. The applicant shall request the withdrawal in writing, and after such withdrawal, the Manager will not take further action on the application. To re-initiate review after withdrawal, the applicant shall resubmit the application, which in all respects shall be treated as a new application for purposes of review, scheduling, and payment of fees.
- B. Withdrawal from consideration of an application from a public meeting or hearing agenda is discretionary with the applicable review or decision-making body.

12.3.3.12 Inactive Applications

Except as otherwise expressly stated in this Code or in any supplementary rules or regulations for administering this Article 12, the following provisions shall apply to inactive applications:

- A. The Manager shall notify the applicant in writing that an application is considered inactive and will be automatically withdrawn unless the applicant takes action to revive the application according to the Manager's direction within thirty (30) days, if at any point in a review process either:
 1. The Manager has notified the applicant that additional or corrected materials are required, and the applicant has not submitted such materials or responded with a request for a reasonable extension within 45 days after the date of such notification; or
 2. As applicable, the applicant has not responded to a staff report, or has not agreed to a date for a required meeting or hearing before the Planning Board, City Council, or Board of Adjustment, or has not given proper public notice as required by this Code, or has not taken other affirmative steps within a reasonable time frame that is within the applicant's control and is necessary to advance the application for a final determination.
- B. No further processing of an inactive application shall occur until the deficiencies are corrected and the application revived. If the applicant does not correct the deficiencies or take other substantial action to address the deficiency within the 30-day correction period, the inactive application shall be considered automatically withdrawn. Any re-submittal of the application thereafter by the applicant will be treated as a new application for purposes of review, scheduling, and payment of application processing fees.

SECTION 12.3.4 PUBLIC NOTICE REQUIREMENTS

12.3.4.1 General Provisions and Intent

All applications that require public hearings before the Planning Board, the Board of Adjustment, or the City Council shall be subject to this Section's public notice of hearing requirements. In addition, certain applications require public notice of receipt of such application and/or notice of the final decision or appeal opportunities. Public notice is intended to provide an the opportunity for public participation or public information regarding land use and development applications under this Code.

12.3.4.2 Types of Public Notice

There are two types of public notice addressed by this Section:

A. Notice of Public Hearings

When required by Section 12.2.9, Summary Table of Authority and Notice, “Notice of Public Hearings” provides the public with advance notice of a required hearing at which a review- or decision-making body will take action on an application under this Code. Such notice may be provided in writing (mailed), by posting (signs), or by publication.

B. Informational Notice

When required by Section 12.2.9, Summary Table of Authority and Notice, “Informational Notice” provides the public with notice of Community Planning and Development’s receipt of an application for review (e.g., a zoning permit or site development plan), and/or the approving authority’s final decision on such application and available avenues for appeal. Such notice may be provided in writing (mailed) and/or by posting (signs).

12.3.4.3 Public Notice – When Required

Required public notices are summarized in the table shown in Section 12.2.9, Summary Table of Authority and Notice. More detailed information may be included with each specific zoning procedure described in Division 4 of this Article 12.

12.3.4.4 Notice of Public Hearing

A. Written Notice of Public Hearings

When required by Section 12.2.9, Summary Table of Authority and Notice, written notice of a public hearing shall be provided in compliance with the following standards:

1. Official Map Amendment (Rezoning) - Written Notice of Planning Board Public Hearings

- a. No later than 15 days before a required Planning Board public hearing on a proposed official map amendment (rezoning), the Manager shall notify the following parties:
 - i. The city council members in whose district the subject property is located.
 - ii. The at-large city council members.
 - iii. Registered neighborhood organizations registered according to D.R.M.C. Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed official map amendment (rezoning).
 - iv. The owners of any real property located in whole or in part within, or within 200 feet of, the proposed official map amendment (rezoning).

2. All Other Applications - Written Notice of Planning Board Public Hearings

- a. Except for an official map amendment (rezoning) application, No later than 15 days before a required Planning Board public hearing on an application, the Manager shall notify the following parties:
 - i. ~~The~~ The city council members in whose district the subject property is located,
 - ii. ~~and the~~ at-large city council members.
 - iii. ~~In addition, if the subject application affects areas within, or within 200 feet of, a registered neighborhood organization’s boundaries, the Manager shall notify such registered neighborhood organizations registered according to D.R.M.C. Section 12-94.~~ Registered neighborhood organizations registered according to D.R.M.C. Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed application.

3. Written Notice of City Council Public Hearings

No later than 21 days before a required City Council public hearing on an application, the Manager shall notify the city council members in whose district the subject property is located and the at-large city council members. In addition, if the subject application affects areas within, or within 200 feet of, a registered neighborhood organization's boundaries, the Manager shall notify such registered neighborhood organizations registered according to D.R.M.C. Section 12-94.

4. General Requirements

- a. The notice shall be sent via U.S. mail first class or by electronic mail if the recipient has indicated their acceptance of notice by electronic mail.
- b. Notification shall include, where applicable, the location and general description of the proposed action; the process to be followed, including the date, time and place of the scheduled public hearing and/or public meeting.

5. Minor Defects in Notice Do Not Impair Hearing

Minor defects in a notice shall not impair the notice or invalidate proceedings under the notice if a *bona fide* attempt has been made to comply with applicable notice requirements. Where written notice was properly mailed, failure of a party to receive written notice shall not invalidate any subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing and the location of the subject property shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the review or decision-making body shall make a finding regarding whether there was substantial compliance with the notice requirements of this Code before proceeding with the hearing.

B. Posted Notice of Public Hearings

When required by Section 12.2.9, Summary Table of Authority and Notice, posted notice of a required public hearing shall be provided in compliance with the following standards:

1. No later than 15 days prior to the required Planning Board public hearing, and no later than 21 days prior to the required City Council public hearing, the applicant shall be responsible for posting signs on the subject property providing public notice thereof.
2. Posted notice shall be in number, size, location, and content as prescribed by the Manager and shall indicate the time and place of the public meeting or hearing, and any other information prescribed by the Manager.
3. The applicant shall take all reasonable efforts to assure that posted signs remain on the site in the number and location prescribed by the Manager, and in good condition to maintain legibility, during the posting period.
4. Posted notices shall be removed by the applicant from the subject property no later than 15 days after the public hearing has been held. Failure to do so shall constitute a violation of this Code.

C. Published Notice of City Council Public Hearing

No later than 21 days prior to the required City Council public hearing, the Office of the City Council, together with the Denver City Clerk's Office, shall publish notice of the time and place of a required public hearing before the City Council in the official newspaper.

12.3.4.5 Informational Notice – General Provisions**A. Written Notice of Receipt of Application**

When required by Section 12.2.9, Summary Table of Authority and Notice, written notice of receipt of application shall be provided in compliance with the following standards:

1. Official Map Amendment (Rezoning) - Timing of Notice

For an official map amendment (rezoning) application, Community Planning and Development shall cause written informational notice to be provided no later than 10 days after the determination that a complete application has been received in accordance with Section 12.3.3.8, Determination of Complete Application. Community Planning and Development shall cause written informational notice to be sent to the following parties:

- a. The city council members in whose district the subject property is located;
- b. ~~to~~ The at-large city council members;
- c. ~~and to those neighborhood organizations registered according to D.R.M.C. Section 12-94, whose boundaries encompass or are within 200 feet of the proposed development. Registered neighborhood organizations registered according to D.R.M.C. Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed official map amendment (rezoning).~~
- d. The owners of any real property located in whole or in part within, or within 200 feet of, the proposed official map amendment (rezoning).

2. All Other Applications - Timing of Notice

Except for an official map amendment (rezoning) application, no later than 10 days after receipt of a complete application, Community Planning and Development shall cause written informational notice to be sent to the city council members in whose district the subject property is located, to the at-large city council members, and to those neighborhood organizations registered according to D.R.M.C. Section 12-94, whose boundaries encompass or are within 200 feet of the proposed development.

3. Notice to Landmark Preservation Commission

If the subject property falls within an area designated as a structure or district for preservation according to the D.R.M.C., Chapter 30 (Landmark Preservation), Community Planning and Development shall notify the Denver Landmark Preservation Commission regarding the application within the same time periods specified in paragraphs 1 and 2 above.

4. General Rules

- a. The informational notice shall be sent via U.S. mail first class or by electronic mail if the recipient has indicated their acceptance of notice by electronic mail.
- b. Notification shall include the location and general description of the application and proposed action; and the process to be followed, including the date, time and place of any related public meeting or hearing, if such has been scheduled; and information concerning, as applicable, when and where written comments may be submitted.
- c. The failure of any real property owner or a registered neighborhood organization, for whatever reason, to receive a notification required hereunder shall not invalidate any final action by the city.

B. Posted Notice of Receipt of Application

When required by Section 12.2.9, Summary Table of Authority and Notice, posted notice of receipt of an application shall be provided in compliance with the following standards:

1. No later than 10 days after receipt of a complete application, the applicant shall post the subject property in a conspicuous location for 10 days with a sign or sign template provided by Community Planning and Development. The start of the 10-day period shall be the first day of the posting of the sign.
2. Such sign shall describe the proposal, give directions for submitting comments to Community Planning and Development within 30 days from the beginning of the posting

period, and state that any final decision to approve the application shall be posted at the same location for 15 days as soon as it is effective.

3. Posted notices shall be removed by the applicant from the subject property by no later than 15 days after the end of the posting period. Failure to do so shall constitute a violation of this Code.

C. Posted Notice of Final Administrative Action

When required by Section 12.2.9, Summary Table of Authority and Notice, posted notice of final administrative action on an application shall be provided in compliance with the following standards:

1. Within 7 days after reaching a final decision to approve an application subject to informational notice, Community Planning and Development shall cause the applicant to post the property with a copy of the approving decision for a period of 15 days.
2. The applicant shall post the property in a conspicuous location with a sign or sign template provided by Community Planning and Development.
3. The effective date of the final administrative action and the start of the 15-day period during which appeals may be made to the Board of Adjustment shall be the first day of the posting of the sign. Such sign shall describe how an appeal from the final administrative decision may be filed and state that any appeal must be filed within 15 days, and shall provide contact information for obtaining the standards and criteria that will govern the appeal.

SECTION 12.3.5 EFFECT OF APPROVED APPLICATIONS, PLANS AND PERMITS

All applications, plans and permits approved under this Article 12 and this Code shall be binding upon the applicants, their successors and assigns, shall limit and control the issuance and validity of all subsequent site development plans and zoning permits, and shall restrict and limit the construction, location, use, and operation of all land and structures in accordance with such plans or permits. See also Section 12.3.7, Modification and Amendment of Approved Applications, Plans and Permits, below.

SECTION 12.3.6 LAPSE OF APPROVAL PROVISIONS AND EXTENSION OF APPROVAL PERIOD

12.3.6.1 In General - Lapse of Approved Applications, Plans and Permits

An application, site development plan, or zoning permit approved under this Code may lapse if certain actions related to the approved application are not taken within a specified time period as set forth in Division 12.4, Zoning Application and Review Procedures. Specific actions that must be taken with regard to each application, plan or permit to avoid lapsing of the approval are set forth in Division 4 of this Article for each type of zoning application.

12.3.6.2 Beginning of Approval Period - General Rule

Unless otherwise specified in Division 4 of this Article 12, the approval period of an approved application, plan or permit, after which lapse will occur, shall begin on the date of the decision-making body's final action, which shall be interpreted to mean:

- A. Except as stated in Section 12.3.6.2.B regarding site development plans, for approved plans or permits that this Code requires to be recorded: the date of recordation.
- B. For all other approved applications, plans or permits, including site development plans: the date of the decision-making body's final action, which shall be affixed to all approved applications, plans or permits.

Morrison, Jason P. - CPD PS Neighborhood Planning

From: Aguirre, Anne <aaguirre@law.du.edu>
Sent: Friday, March 09, 2018 11:58 AM
To: Morrison, Jason P. - CPD PS Neighborhood Planning
Subject: SUPPORT FOR REZONING NOTIFICATION TEXT AMENDMENT

I am a registered voter and property owner in three Denver districts – I support the expanded and modified notification amendment proposed by Councilman Espinoza

Anne Aguirre
1715 S Downing St, Denver 80210
1578 Jackson St, Denver 80206
1995 S Fairfax St, Denver 80222

From: [Hock, Analiese M. - CPD PS Neighborhood Planning](#)
To: [george mayl](#)
Cc: [eanzapinc@gmail.com](#); [joel@joelnoble.net](#); [Morrison, Jason P. - CPD PS Neighborhood Planning](#)
Subject: RE: Notification
Date: Friday, March 16, 2018 1:27:13 PM

Hi George,

I am not the case manager for the proposed text amendment, however I will forward on to Jason Morrison who is leading this effort for inclusion in the staff report. Thank you,

Analiese Hock | Senior City Planner
Community Planning and Development | City and County of Denver
p: (720) 865-2607 | Analiese.hock@denvergov.org
DenverGov.org/CPD | [@DenverCPD](#) | [Take our Survey](#)



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From: george mayl <comayl@aol.com>
Sent: Friday, March 16, 2018 1:14 PM
To: Hock, Analiese M. - CPD PS Neighborhood Planning <Analiese.Hock@denvergov.org>
Cc: eanzapinc@gmail.com; joel@joelnoble.net
Subject: Notification

Analiese,

On Saturday March 10 2018, the Delegates of the Inter Neighborhood Cooperation voted to support Councilman Espinoza's Re-Zoning Notification Amendment. For your information, the vote was 54 for, 2 abstentions and no oppositions.

Regards,

George E Mayl
President, INC

**CITY AND COUNTY OF DENVER, COLORADO
REGISTERED NEIGHBORHOOD ORGANIZATION
POSITION STATEMENT**

Following a vote of the Registered Neighborhood Organization, please complete this form and email to rezoning@denvergov.org. You may save the form in *.pdf format if needed for future reference. Questions may be directed to planning staff at rezoning@denvergov.org or by telephone at 720-865-2974.

Application Number	<input type="text"/>
Location	<input type="text"/>
Registered Neighborhood Organization Name	<input type="text"/>
Registered Contact Name	<input type="text"/>
Contact Address	<input type="text"/>
Contact E-Mail Address	<input type="text"/>
Date Submitted	<input type="text"/>

As required by DRMC § 12-96, a meeting of the above-referenced Registered Neighborhood Organization

was held on , with members in attendance.

With a total of members voting,

voted to support (or to not oppose) the application;

voted to oppose the application; and

voted to abstain on the issue.

It is therefore resolved, with a total of members voting in aggregate:

The position of the above-referenced Registered Neighborhood Organization is that Denver City Council

Application #

Comments: