

# ADVANCING EQUITY IN REZONING ISSUE IDENTIFICATION REPORT

September 28, 2022

## The Advancing Equity in Rezoning Project

This report was produced as part of an effort to update the way zoning of properties is changed in Denver. The Advancing Equity in Rezoning (AEIR) project aims to improve transparency of and access to the rezoning process, consider the impact of rezonings on neighboring residents and properties, and explore how rezonings can lead to equitable outcomes that better serve all community members, such as improving access to open space, public transportation, housing, and employment opportunities. This report is an important documentation of the work which is underway by the AEIR task force and will be used to inform future recommendations. For a list of the task force members, please visit the [project website](#).

The AEIR project was initiated in late 2021 and began with assembling a 25-member volunteer task force to guide the project and ensure an inclusive public process. The task force comprises a cross-section of stakeholders in the rezoning process, including neighborhood organizations and nonprofits, property owners, developers and land use professionals. To date, the task force has met 8 times, 5 focus groups have been conducted and 1 community meeting has been held to gain a broad understanding of the challenges and gather greater insights from throughout the community. The next project phase involved research, analysis and public engagement to identify the issues with the current system – this report is the result of that work.

Subsequent project steps will involve working with the task force to explore alternatives for addressing these identified issues and building consensus around a preferred approach for updating Denver’s rezoning process. The end results are expected to include recommended amendments to the Denver Zoning Code to update rezoning requirements, such as criteria, process and notification. The Department of Community Planning and Development (CPD) will also update processes and procedures as needed to implement the project.

### *Project Goals*

The project goals include:

- Updating the rezoning process so that it is transparent, equitable, and accessible for all an updated rezoning process that is transparent, accessible, and equitable, flexible, and predictable.
- Identifying rezoning review criteria that inform better decisions and achieve citywide goals, including goals related to equity.
- Creating requirements that respond to the varied equity impacts of rezonings.

More information about the purpose, community engagement and timeline of the Advancing Equity in Rezoning effort, please visit the [project website](#).

## Purpose of this Report

This report defines the issues with the rezoning process identified by project stakeholders and the task force. Future phases of the project will build on the Issue Identification Report with an evaluation of alternatives and a recommended strategy for updating the rezoning process so that it is more equitable, transparent, and accessible.

## Issue Identification Process

City staff, the Advancing Equity in Rezoning community task force, focus group members, and the general public all contributed to the development of issues identified in this report. More information about community engagement in the first two phases of the project is available on the [project website](#).

The process included:

### *City Staff Evaluation & Refinement*

Staff reviewed community comments from the engagement described above to draft initial issue identification statements for task force and community review.

### *Task Force Review*

The Advancing Equity in Rezoning community task force reviewed staff's initial issue identification statements and provided feedback and recommendations to inform refined statements that were shared with the public for additional feedback. Task force feedback highlighted several key themes related to equity:

- Rezoning notifications: who receives notifications and the methods by which notification is provided;
- How community feedback is used within the rezoning process;
- Expectations of applicants;
- Appropriateness of a single set of process requirements to all rezonings (e.g., whether the rezoning process should vary depending on the type of applicant or subject site being rezoned); and
- Inequitable outcomes of the rezoning process

### *Community Review*

The project team hosted 5 focus groups, distributed a public survey, and held a community meeting on April 5, 2022 to solicit community comments on the draft issues discussed with the task force. Community participants were generally supportive of the draft issues, with particular emphasis on Registered Neighborhood Organizations and their role in rezonings, and consideration of what will create equity in the rezoning process. Participants also expressed a range of other concerns, including other issues related to equity outside of the rezoning process, environmental issues, and general concerns about zone districts.

The Community Engagement Summary includes a summary of community meetings, surveys, focus groups and task force feedback, including comment themes and meeting summaries.

## Issue Statements and Criteria for Success

*The following issues were identified through community feedback, as well as the evaluation of the existing rezoning trends and processes. It will guide the remaining steps in the project, including a recommended strategy to update the rezoning process and a proposed Denver Zoning Code text amendment that must be approved by the Denver City Council.*

## Issue Statements & Issue Identification

### 1. Public Awareness

General Issue Statements	Specific Issues Identified
A. Required public notice for rezonings is not sufficiently accessible or equitable.	<ul style="list-style-type: none"> <li>• Rezoning notifications use technical language that is not clear and understandable to stakeholders.</li> <li>• Notifications lack details that could help stakeholders better understand the rezoning.</li> </ul>
B. Review criteria and process are difficult to understand.	<ul style="list-style-type: none"> <li>• The review criteria use technical language and it is hard to understand how rezonings are evaluated and ultimately approved or denied.</li> <li>• The rezoning process is complex and lengthy, making it difficult for community members to get involved and participate throughout.</li> </ul>
C. Translation and interpretation is inadequate.	<ul style="list-style-type: none"> <li>• Notifications, such as signs, rezoning materials, staff reports and presentations aren't translated into the relevant language of the community where the rezoning is located.</li> </ul>
D. Notification may not reach affected stakeholders in a community.	<ul style="list-style-type: none"> <li>• Renters, business tenants and other stakeholders in the area are sometimes not aware of rezonings or do not learn about them until late in the process.</li> <li>• There is no way for community members to sign up to receive notifications.</li> <li>• Registered Neighborhood Organizations (RNOs) receive notifications, but the composition and position of RNOs sometimes doesn't adequately represent the diverse populations of a community.</li> <li>• Community organizations that are not formal RNOs do not receive notices of rezonings.</li> </ul>

## 2. Consideration of Public Input

General Issue Statements	Specific Issues Identified
<p>A. Public engagement requirements for rezonings are insufficient or unclear.</p>	<ul style="list-style-type: none"> <li>• The rezoning process lacks sufficient requirements or standards for public engagement, which can lead to inequitable opportunities to participate.</li> <li>• Clear guidance is not provided to applicants on when to engage with communities or how to successfully engage.</li> <li>• Community members are sometimes not made aware of rezonings until late in the process, leaving little time to provide meaningful input.</li> <li>• Public engagement is not tailored to the scale or location of a rezoning.</li> </ul>
<p>B. The role of public input in the decision-making process for rezonings is unclear.</p>	<ul style="list-style-type: none"> <li>• It's unclear how public input influences the outcome of a rezoning.</li> <li>• The weighing of quality versus quantity of public comments is unclear. There is sometimes a misconception that a rezoning decision should be based on the number of public comments in support or against rather than an evaluation of the review criteria.</li> <li>• Public input can sometimes differ from adopted plan guidance, which is based on multi-year engagement with a broad range of community members. This can lead to inequitable outcomes when public input is considered in the decision-making process.</li> </ul>
<p>C. The timing and format of public hearings for rezonings are inequitable and inaccessible to some stakeholders.</p>	<ul style="list-style-type: none"> <li>• The public hearings for rezonings happen later in the process and may not give staff, Planning Board or City Council appropriate time to incorporate feedback as part of the rezoning evaluation.</li> <li>• Public hearings happen either in the late afternoon or early evening when some people cannot attend and participate.</li> </ul>

### 3. Process for Applicants

General Issue Statements	Specific Issues Identified
<p>A. The rezoning process is the same regardless of location or scale of the request. It is complex and time-consuming, even for proposals that clearly meet the review criteria and/or are smaller rezonings.</p>	<ul style="list-style-type: none"> <li>• The rezoning process does not have ways to expedite rezoning cases that are very simple with low impact.</li> <li>• There are insufficient additional steps or requirements for rezoning cases that have a potential for greater equity impacts, such as larger rezonings in neighborhoods vulnerable to displacement.</li> </ul>
<p>B. The application process for a rezoning is not accessible or understandable to many applicants.</p>	<ul style="list-style-type: none"> <li>• The steps to the rezoning process are not clearly laid out or communicated.</li> <li>• Applications and other documents are not translated into other languages or accessible for the visually impaired.</li> <li>• It's not clear how community input may impact the rezoning process.</li> <li>• Some process steps are unfamiliar or unclear to applicants without previous experience. For example, there is not a guide for how to conduct public outreach prior to submitting an application.</li> </ul>
<p>C. Process steps and potential outcomes are not clear to applicants.</p>	<ul style="list-style-type: none"> <li>• Even when city staff finds that a rezoning is consistent with review criteria, applicants may experience opposition and even denial by decision-makers.</li> <li>• It can be unclear how the review criteria are used at Planning Board and City Council.</li> </ul>

4. *Review Criteria*

General Issue Statements	Specific Issues Identified
A. The review criteria do not identify how public input is used.	<ul style="list-style-type: none"> <li>• There are no specific requirements or guidelines for considering public input as part of the evaluation of a rezoning case.</li> </ul>
B. The review criteria do not clearly consider equity impacts.	<ul style="list-style-type: none"> <li>• Blueprint Denver’s equity concepts and analysis are considered as part of the criteria for consistency with adopted plans, but not directly stated or required.</li> </ul>
C. The review criteria are unclear or vague.	<ul style="list-style-type: none"> <li>• Criterion language like consistency with zoning code intent language and uniformity of district regulations are not clear to the average citizen, including many applicants and stakeholders.</li> <li>• The criterion that a rezoning must further public health, safety and welfare can be interpreted in a variety of ways and the evaluation often is redundant with the adopted plans criteria.</li> </ul>

### 5. Equitable Outcomes

General Issue Statements	Specific Issues Identified
<p>A. Equity analysis of rezonings is inconsistently applied.</p>	<ul style="list-style-type: none"> <li>• Tools to evaluate equity are not used on all rezonings because some data is not available at the parcel level or at a small scale.</li> <li>• The small area of some rezonings limits the feasibility of meaningful commitments that could impact neighborhood equity.</li> </ul>
<p>B. Rezoning results in a wide range of possible outcomes for a property, making potential impacts unpredictable.</p>	<ul style="list-style-type: none"> <li>• Information about proposed changes, such as a site plan, is not required for a rezoning.</li> </ul>
<p>C. It is difficult for applicants to make commitments at the time of rezoning.</p>	<ul style="list-style-type: none"> <li>• Applicants often do not have a proposed development, so agreeing to specifics can be challenging.</li> <li>• The city currently enters into agreements for some rezonings, but does not have the infrastructure or enforcement capability for agreements related to some topics like subsidized commercial space, or certain uses like grocery stores, etc.</li> <li>• Some agreements are done privately, but they are not enforced by the city and do not necessarily address equity impacts.</li> </ul>
<p>D. Rezoning fees are inequitable.</p>	<ul style="list-style-type: none"> <li>• The cost to rezone a property for a small increase in entitlement, such as an accessory dwelling unit, is the same cost that would be paid to rezone a similarly sized property to allow many new units of housing.</li> <li>• Rezoning fees do not take land value or other factors into account.</li> <li>• Fees can be a barrier for smaller applicants.</li> </ul>
<p>E. Relying primarily on applicant-driven rezonings to implement plans can lead to inequitable outcomes.</p>	<ul style="list-style-type: none"> <li>• Area plans provide the opportunity for communities to identify the need for changing uses, patterns, etc. in an area, such as to create more housing near transit services or a new community-serving commercial area. But rezoning to allow this evolution often happens in a piecemeal fashion, and rezoning becomes more controversial as time passes and area plan participants become less aware and involved.</li> </ul>

## Criteria for Successful Solutions

Solutions to identified issues of the rezoning process should balance multiple community objectives. The task force and city staff will use the draft criteria outlined below to ensure the recommended strategy successfully balances multiple objectives.

### EFFECTIVENESS

Proposed solutions should promote outcomes that directly address one or more elements of the Issue Statements by:

- Updating the rezoning process so that it is transparent, equitable, and accessible for all;
- Identifying rezoning review criteria that support equitable outcomes and achieve citywide goals, including goals related to equity; and
- Creating requirements that respond to the varied equity impacts of rezonings.

Where multiple solutions could address the issue statement, the tool that is the least complex and most direct will be preferred over a tool that may have wider effects.

### EQUITY

Proposed solutions should incorporate feedback from a wide range of stakeholders, including residents, property owners, and developers. The solutions should also ensure that both community members and applicants have equitable access to participate in the rezoning process.

### FLEXIBILITY

Proposed solutions should recognize the variety of rezonings and incorporate variables that respond to the type or size of rezoning. The desire for flexible solutions should be carefully balanced with a need for predictable outcomes as described below.

### PREDICTABILITY

Proposed solutions should result in predictable, clear outcomes for all stakeholders. This means that rezoning applicants should be able to predict the likely outcome of an approval process if they follow the regulations, city staff should be able to consistently evaluate rezonings against requirements, and the community should have a reasonable understanding of the rezoning process, including the decision-making process.

## Next Steps

Next steps in the Advancing Equity in Rezoning project will include developing strategies to address the issues identified above and drafting a proposed text amendment to the Denver Zoning Code. The task force will evaluate proposed solutions, identify preferred approaches and refine final recommended strategies to share with the community for feedback. There will be additional opportunities for public engagement on the recommended strategies in Fall/Winter 2022/2023.