What Does Equity in Zoning Mean?

Colorado Planning Conference
Keystone Resort
September 8, 2021
Why This Session?

1. Zoning is a very powerful force in determining where people live and work.
2. It also turns out to powerfully reinforce racial, ethnic, and income segregation.
3. And it reinforces lending patterns that have tended to limit wealth accumulation in BIPOC communities.
4. And many of these results are caused by unspoken impacts of facially neutral language that needs to be revised or removed.
5. APA is currently drafting a Policy Guide on the topic.
Context and Framework

1. Zoning operates within a system of real estate, lending, governance, and property rights that tends to institutionalize segregation and limit upward mobility.
   - The fact that zoning cannot solve all these challenges does not mean it is not a key part of the solution.

2. Zoning is a very white and very male profession, and many reforms will not happen until that changes.

Three Key Aspects of Zoning Equity

The People: Notice, Participation, Process, and Enforcement

The Rules: Built form, permitted uses, size, character, quality of development

The Maps: Which often look a lot like the old redline maps
Today’s Panelists

Sarah Showalter, AICP
• Planner with private and public sector experience
• Director of Planning Services at Denver Community Planning & Development
• Focused on Denver equity initiatives

Charnelle Hicks, AICP
• Planner from Philadelphia-Washington area
• President of CH Planning and Nspire Green
• Co-lead on APA Policy Guide

Don Elliott, FAICP
• Planner/lawyer drafting development codes
• Director, Clarion Associates, Denver
• Co-lead on APA Policy Guide
Sarah Showalter, AICP

Denver’s Equity Initiatives
Group Living Zoning Code Amendment

- Major overhaul to zoning code to address bias about how people live together

- Examples of bias in Denver’s zoning code prior to this project:
  - Community corrections facilities not allowed outside of industrial areas
  - Since 1954, groups of more than two unrelated people were only allowed to live in multi-unit dwellings, but not in single-unit homes

“The community knows about us. We give back to the community, we maintained the block, cleaning it up, we cut neighbor's grass and we helped our neighbors.”

- Maurice, formerly homeless, former Community Corrections resident, and Denver Rescue Mission worker
Group Living Zoning Code Amendment

**Household living:** allow up to 5 adults of any relationship to live as part of a household (retain no limit on number of related adults)

**Residential Care:**

- Consolidate all uses where care is required into a single use type: “Residential Care”
- Regulate by size, with spacing and density limitations for larger facilities
- Allow residential care uses in more places
- Examples: Shelters for people experiencing homelessness; community corrections and halfway houses; Assisted Living; Nursing homes
Challenges

• Politics and compromise
• Combating perceptions, bias, and misinformation
• Referendum in November
Equity Analysis for Rezonings

• Use the equity metrics from Blueprint Denver to understand issues and opportunities for an area where a rezoning is proposed

• Identify gaps related to equity that should be considered and addressed as part of any rezoning:
  • 5+ acres or any site part of the Large Development Review (LDR) process
  • Any neighborhood with high vulnerability to displacement (NEST neighborhood)
Blueprint Denver Contains Three Major Equity Concepts

- **Improving Access to Opportunity**: creating more equitable access to quality-of-life amenities, health and quality education.
- **Reducing Vulnerability to Displacement**: stabilizing residents and businesses who are vulnerable to involuntary displacement due to increasing property values and rents.
- **Expanding Housing and Jobs Diversity**: providing a better and more inclusive range of housing and employment options in all neighborhoods.
EQUITY ANALYSIS AT ACCESS TO OPPORTUNITY

AVERAGE SCORE OF ___ OUT OF 4.0

MORE EQUITABLE IN:
- High School Degree
- Life Expectancy

MORE ACCESS TO:
- Public Transit
- Public Parks

LESS EQUITABLE IN:

LESS ACCESS TO:
- Healthcare
- Grocery Stores
Examples of outcomes that may come from an equity analysis:

- **On-Site Open Space Amenities Improve:**
  - Access to Open Space
  - Child Obesity

- **On-Site Affordable Housing Units Improve:**
  - Housing Diversity
Challenges

• Difficult to get improvements without codified process and requirements

• Launching a project later this year to change regulations
Charnelle Hicks, AICP

Equity in Planning and Zoning Practice
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Charnelle Hicks, AICP
President, CHPlanning

• Land Use Planning
• Zoning
• Equity & Engagement
Equity in Practice

Zoning Regulations
Equitable Foundations

• Equal Protection
• Equal Access & Enjoyment
• Freedom & Opportunity to Thrive

Why we Regulate Land Use
Equity in Practice

Environmental Justice

• Established National Environmental Policy Act (NEPA)
• Quantitative Methodology
• Measures Impacts and Benefits
Equity in Practice

Equitable Foundations

• Who are zoning for?

• How do we measure our impact?

• Who are the decision makers?
Equity in Practice

Spartanburg, SC Comprehensive Plan
www.planspartanburg.com

• Equity based comp plan (first in the US)
• Indicators: e.g. CDC Social Vulnerability Index
• Historic harms addressed
• Inclusive engagement

CHPlanning/Nspiregreen
w/Town Planning & Urban Design Collaborative
Equitable Zoning Implications

• Engage all stakeholders
• Examine past zoning performance
• Establish values and policy goals
• Consider trade-offs
Equity in Practice

Land Use Planning & Regulations should work for everyone!
Don Elliott, FAICP

Emerging Efforts to Address Specific Issues of Zoning Equity
Emerging Efforts in Zoning Equity

Special Challenges of Housing Equity

If you didn’t know already . . .

- Persons of Color earn less than Whites
- Women earn less than men
- Persons experiencing disability earn less than those not experiencing disabilities

So efforts to promote affordable housing will disproportionately benefit these groups

- BUT . . . There is no guarantee that the beneficiaries will be BIPOC, women, or the disabled
Emerging Efforts in Zoning Equity

Special Challenges of Housing Equity

Although race and ethnicity are clearly very important determinants of opportunity in housing – the Fair Housing Act effectively prevents reverse discrimination to ensure that the beneficiaries of increased affordable housing will be racial or ethnic minorities.

- Although Community Benefits Agreements or other regulations to benefit existing housing residents can sometimes be a proxy for race – the number of existing neighborhood residents actually occupying the new housing remains low.
Emerging Efforts in Zoning Equity

The Complex Issue of Single-Family Zoning

- 50% or more of the land area in many cities is zoned for single-family only
  - NOT allowing more units in single-family zones means trying to solve the affordability using only 50% (or less) of available land
- The U.S. expands the number of housing units by an average of ___ per year.
  - NOT enough to keep up with population growth and household formation
  - NOT finding ways to use existing structures to house more people means we will probably fall further behind.
Emerging Efforts in Zoning Equity

The Minneapolis solution

**Single-Family Zoning**
Will the growth in dwelling units be slow?

- YES, because many single-family dwelling owner have no intention of adding more units or selling to someone who will
- BUT, the Boomer generation is selling homes faster than the younger generations can generate the wealth to buy them for household use
- SO, an increasing number will be purchased by investors who will use them to add units over time

Is that a good thing?
Emerging Efforts in Zoning Equity

Dismantling single-family zoning?

- **Where?** Speculative buying to add units to single-family properties is likely to result in more homes being purchased and units added in low- and middle-income neighborhoods than in wealthier neighborhoods.

- **Affordable?** All conversions of single-family properties to include more units will involve new construction costs and will be rented at market rates, so it is not clear that the added units will be any more “affordable” than the ones they replace.

- **Covenants?** Newer homes in outlying areas are more likely to have covenants that restrict their use to single-family use – unless the state governments make them unenforceable.
Emerging Efforts in Zoning Equity

Dismantling single-family zoning?

Possible responses

• Don’t include areas of Naturally Occurring Affordable Housing from those where additional units can be added

• Only allow conversions to add new units if the owner:
  – Agrees to income-restrict some of the new units; or
  – Agrees to give preference to existing neighborhood residents to buy or rent the additional units

• Get the state to invalidate single-family only covenants

• “It doesn’t matter, since even if it does gentrify low-income (and more likely to be minority) neighborhoods we’re adding units over time – and that’s the long-term cure”

Slows the addition of new units

Slows the addition of new units

Tough – and still likely most impacts will fall on low-income areas

Ignores equity impacts
Emerging Efforts in Zoning Equity

Commercial Zoning and Employment

• Many zoning codes eliminate or limit the availability of perceived “low-end” primary and accessory commercial uses
  – Used car dealers
  – Pawn and second-hand shops
  – Nail and hair salons
  – Massage parlor
  – Auto and machinery repair
  – Check-cashing facilities
  – Walk-up restaurants

• But these low-entry barrier businesses are disproportionately minority and women-owned businesses
Commercial Zoning and Employment

• Many zoning codes also restrict or prohibit home-based employment based on perceived neighborhood impacts
  – Home child and adult care
  – Automobile and equipment repair
  – Automobile sales
  – Landscaping
  – Assembly or craft work
  – Storage of goods or equipment outdoors
  – Conducting business in an accessory structure

• Again -- these low-entry barrier businesses are disproportionately minority and women-owned businesses
Emerging Efforts in Zoning Equity

Possible Responses to Unintended Impacts

• Focus on the impacts, not the name

• Loosen up the regulations for all areas
  – Sometimes just not calling out “hot button” land uses
  – “Bank” and “Check-Cashing Facility” become “Financial Institution” (or better yet “Office”).

• Loosen up the regulations for some areas
  – Higher income zones or areas? – to make them less “exclusionary” even though high land rents or private rules make it unlikely these uses can locate and succeed there
  – Low income zones or areas? – to allow more economic activity where it can afford to operate, even though it tends to reinforce income (and probably racial/ethnic segregation)
Emerging Efforts in Zoning Equity

**Engagement, Notice, and Participation**

- Lots of focus on creative additional engagement techniques
  - Multi-lingual notices
  - Mailed notices to renters
  - Landlord duties to post notices
  - BIPOC neighborhood networks
  - “Meeting them where they are”

- Not sure whether Zoom and virtual tools have increased diversity of participation

- “Being at the Table” not enough
  - The rules need to reflect the values of those who cannot be at the table
Questions and Discussions

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