Amendments and Modifications to Approved Plans

Sec. 12.3.7

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Modification or Amendment to Approved Plans Section 12.3.7.1

12.3.7.1.A, Modifications to Regulating Plans, Site Development Plans or Zoning Permits

2. The Zoning Administrator may allow one or more Accessory Dwelling Unit uses in excess of any specified number of dwelling units or maximum density in an approved regulating plan or site development plan according to the applicable procedure specified below.

   a. **Accessory Dwelling Units in a Plan-allowed Structure**
   Where the Accessory Dwelling Unit use will be located within a Primary Structure or Detached Accessory Structure that is allowed by an approved regulating plan or site development plan, and the building footprint of the approved structures will not be expanded, the Accessory Dwelling Unit may be approved by Zoning Permit.

   b. **Accessory Dwelling Units With Expanded Building Footprint**
   Where an Accessory Dwelling Unit use will be located in a Primary Structure or Detached Accessory Structure and the building footprint(s) will be expanded beyond those shown in an approved regulating plan or site development plan, the Accessory Dwelling Unit may be approved by modification to the approved regulating plan or site development plan.

   c. **Site Development Plans Approved Under Former Chapter 59**
   For purposes of this Section 12.3.7.1.A.2, the phrase "site development plan" shall also include site development plans previously approved under Former Chapter 59 that are applicable to land zoned and mapped under the Denver Zoning Code. Site development plans under Former Chapter 59 include site plans approved according to Former Chapter 59, Article VIII - Special Zone Lot Plans for Planned Building Groups.

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- New section 2 that states that the ZA may allow one or more ADU uses in excess of any specified number of dwelling units or maximum density in an approved regulating plan or site development plan according to the procedure outlined.
- New provision A: If an ADU use is added inside a primary or detached accessory structure already allowed by the approved site development plan, the ADU use may be added without requiring a modification or amendment to the governing site development plan (i.e., only a zoning permit is required).
- New provision B: Construction of one or more new detached ADU structures/uses, or the proposed expansion of a primary structure approved in the original plan to accommodate a new ADUS use, will trigger only the modification process and not the full amendment process for the SDP (previously, an amendment would be triggered because of the increase in the density or number of units allowed in the plan).
- New provision c: Clarifies that the term “site development plan” includes site and development plans approved under Former Chapter 59 but currently applied to lands zoned under the Denver Zoning Code.

Amendments to Approved Plans

Section 12.3.7.2 - Amendments to Approved Applications, Plans, and Permits:

2. **General Rule - Entire Land Area and All Owners Must be Included**
~~Unless otherwise allowed by this Code~~ Except as otherwise allowed in this Section or this Code, each application for amendment shall include the entire land area of the original approved application, plan, or permit, and ~~may~~ shall be initiated by all the owner(s) or agent of the owner(s) of the property to which the amendment applies.

3. **Amendments to Approved Site Development Plans - Exception Allowed**

   a. **Applicability of Exception**

      i. The exception stated in this subsection 12.3.7.2.A.3 shall apply to site development plans previously approved under this Denver Zoning Code and to site development plans previously approved under Former Chapter 59 that are applicable to land zoned and mapped under the Denver Zoning Code.

      ii. Site development plans under Former Chapter 59 include development plans and site plans approved according to Former Chapter 59, Article VIII - Special Zone Lot Plans for Planned Building Groups. The phrase "site development plan" in this Section shall include all types eligible for the exception stated herein.

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- Section 12.3.7.2.A. outlines the Procedure and Applicable Rules for Amendments
- This subsection revised to add descriptive headings and a new procedure has been added to create a new process to allow amendments to a previously approved site development plan without requiring participation of 100% of the property owners subject to the site development plan.
- The second item in this section starts with the general rule that the entire land area and all owners must be included in the application for an amendment to an approved plan.
- 3 is new – it creates an exception to the general rule that all property owners be included in the application for an amendment.
- This is a discretionary, pre-application review by the Development Review Committee (DRC) against a set of criteria to ensure no adverse impacts on the non-participating owners and surrounding community.
    - Provision makes clear that the term “site development plan” includes site and development plans approved under Former Chapter 59 but currently applied to lands zoned under the Denver Zoning Code.

Amendments to Approved Plans

Section 12.3.7.2 - Amendments to Approved Applications, Plans, and Permits:

b. Exception to General Rule - Review Process

Contrary to the standards or limitations stated in this Section 12.3.7.2.A and in Former Chapter 59, the Development Review Committee (DRC) may allow an application for an amendment to a previously approved site development plan that is not initiated by all the owners of the property to which the original approved plan applies. In addition, the DRC may allow an application for an amendment to a previously established Zone Lot located within the boundaries of a previously approved site development plan, where the Zone Lot amendment is not initiated by all the owners of the affected Zone Lot(s) and provided the affected Zone Lot(s) does not contain a single unit or two unit Dwelling use. The DRC may approve such exceptions only if the following conditions and criteria are met:

i. The applicant for the amendment participates in a mandatory Pre-Application Meeting review step, according to Section 12.4.3.3.B. of this Code, before submitting an application to amend the previously approved site development plan and/or Zone Lot.

a) As authorized by Section 12.3.3.3.C of this Code, in requiring additional information necessary to make its decision on the exception, the DRC may include analysis of the potential impacts on infrastructure construction, operations, or maintenance referenced or contained in a separate document, report, or plan that supported or justified the approval of the original plan.

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B outlines the review process for the exception to the general rule for all owners to participate; the DRC may allow an amendment to move forward without all owners participating provided the conditions in A and B are met.

The review process for accessing this exception is spelled out here. This item B also notes that a zone lot located within the boundaries of a previously approved SDP may be allowed to move forward without all owners of the Zone Lot participating, so long as the zone lot does not contain a single-unit or two-unit dwelling use and as long as the conditions and criteria are met.

First, the applicant must participate in a mandatory pre-application review step. The DRC may include analysis of potential impacts on infrastructure construction, operations, or maintenance as part of the information needed to make a decision.

Amendments to Approved Plans

Section 12.3.7.2 - Amendments to Approved Applications, Plans, and Permits:

i. No later than 30 days after the Pre-Application Meeting is held but before the DRC makes a final decision on whether to allow the exception, Community Planning and Development shall cause the applicant to send written (mailed) informational notice to all owners of real property located within the boundaries of the originally approved site development plan and/or Zone Lot area. The contents of the notice shall comply with the provisions stated in Section 12.3.4.5.4, General Rules [for Informational Public Notice], and shall give direction for submitting comments to Community Planning and Development within 30 days from the date of mailing.

ii. The DRC, with advice from other affected city or public agencies or departments, will decide whether to approve or deny the exception based on evidence presented, comments from non-participating owners, and applying the following review criteria:

a) No material adverse impacts from the proposed amendment will result to non-participating owners subject to the previously approved plan or Zone Lot approval, or to other affected properties or neighborhoods, or substantial mitigation of such material adverse impacts will be included in the amendment application; and

b) Commitments made in the original approved plan, including all conditions of approval, to provide public benefits, including dedications, construction of infrastructure including parks and open space, or affordable housing, will be fulfilled if the amendment is approved.

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No later than 30 days after the pre-app meeting, the applicant shall send written informational notice to all property owners within the boundaries of the original SDP or zone lot area and that follow the rules for providing an informational public notice, and provide owners with direction for submitting comments to CPD within 30 days of the mailing.

Next, the DRC will make its decision having considered advice from other city or public agencies or departments. It will decide whether to approve or deny the exception based on the evidence, comments from non-participating owners, and applying the review criteria in A and B. First, is that no adverse impact will result to non-participating owners subject to the previously approved plan or zone lot approval, or to other affected properties or neighborhoods; or that substantial mitigation of those material adverse impacts will be included in the application.

And second, that commitments made in the original approved plan, including all conditions of approval, to provide public benefits, including dedications, construction of infrastructure, of affordable housing will be fulfilled if the amendment is approved.

Amendments to Approved Plans

Section 12.3.7.2 - Amendments to Approved Applications, Plans, and Permits:

i. Within 15 days after the DRC makes a final decision to approve an application for an exception, Community Planning and Development shall cause the applicant to provide written (mailed) informational notice about the approving decision and right to timely appeal to be sent to all owners of real property located within the boundaries of the originally approved site development plan area. The effective date of the DRC's final decision shall be the date of this mailing.

4. **SDP Amendments Must be Recorded**
The Manager shall record all amendments to a site development plan approved according to this Section in the records of the Denver County Clerk and Recorder's Office.

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After the DRC makes a final decision, CPD shall cause the applicant to provide mailed informational notice about the decision and right to appeal to all property owners within the originally approved site development plan area.

And last, amendments to SDPs must be recorded with the clerk and recorder.

Amendments to Approved Plans

Section 12.3.7.2 - Amendments to Approved Applications, Plans, and Permits:

B. Amendments to Approved Regulating Plans, Site Development Plans and Zoning Permits

2. In addition, any of the following changes to an approved regulating plan, site development plan or zoning permit, including but not limited to a site development plan in a PUD District (but excluding a PUD District Plan amendment which requires City Council approval), shall be considered amendments subject to this Section 12.3.7.2:

   a. ~~An increase in overall project density;~~

   b. An increase in the maximum height of any building by more than 5 feet or 5 percent, whichever is less, but not including allowed height exceptions or incentives, and excepting Accessory Dwelling Units as provided in Section 12.3.7.1.A.2;

   c. An increase in the floor area ratio (FAR) or Gross Floor Area (GFA), by greater than 10 percent as calculated on a total project basis, except when the increase is caused by the addition of permitted Accessory Dwelling Units;

   d. A change to the permitted uses or mix of primary uses if the proposed primary uses are more intensive than the approved primary uses, as determined by the Zoning Administrator according to the criteria in Section 12.4.6 (Code Interpretations and Determination of Unlisted Uses);

   e. A change to the location of permitted primary land uses that would substantially change the development's character or impacts on surrounding property, as determined by the Zoning Administrator;

   f. ~~A reduction in required minimum setbacks from zone lot lines;~~

   g. ~~An increase in required build-to location from zone lot lines;~~

   h. ~~An increase in permitted building coverage, including coverage by surface parking;~~

   i. ~~A reduction by more than 5 percent in the land area designated for landscaping;~~

   j. ~~A reduction in the ratio of parking or loading spaces to overall gross floor area or dwelling units;~~

   k. ~~A change in the permitted number, size or lighting of signs;~~

   l. Changing the vehicle access from and through public rights-of-way; provided, however, that curb cut locations may shift unless specifically established by the approved plan or permit;

   m. Changing or negating a condition of approval; or

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We have narrowed the list of what constitutes an amendment to approved regulating plans, SDPs, and zoning permits – this will streamline review of new development projects:

- The big changes here are- in a, an overall increase in project density is no longer automatically an amendment requiring full DRC approval;
- in b, that height exceptions or incentives for an ADUs as described in the section above are now explicitly excluded;
- under c – if the floor area ratio is caused by the addition of ADUs, it's excepted from the definition of an amendment;
- d and e – clarify their applicability only to primary uses; and
- f through k have been removed given the city's experience that these typically are minor changes that should be allowed and can be addressed adequately through the permitting process, versus the rigor of review as an amendment, requiring full participation of property owners. F through k cover reduction in minimum setbacks, increases in build-to, reduction in the landscaping area, increase in building coverage, reduction of parking or loading spaces, and a change in the permitted number of signs.

Amendments to Approved Plans

Section 12.3.7.2 - Amendments to Approved Applications, Plans, and Permits:

B. Amendments to Approved Regulating Plans, Site Development Plans and Zoning Permits

l. Changing the vehicle access from and through public rights-of-way; provided, however, that curb cut locations may shift unless specifically established by the approved plan or permit;

m. Changing or negating a condition of approval; or

n. Modifying any other element of an approved application, plan, or permit, including but not limited to architectural concepts, building elevations, facade treatments~~;~~ and exterior building materials, on- and off-site traffic circulation or parking areas, on-site drainage, landscaping, or other existing improvements that ~~which~~ would substantially change its character or impacts on surrounding property, as determined by the Manager.

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This is the last part of the list of changes that are considered to be an amendment. We made one addition to 'n' to state that modification of on- and off-site traffic circulation or parking areas, on-site drainage, landscaping or other existing improvements could be considered amendments to an approved plan.