

Land Use and Development Issues

There are a broad variety of land use approvals that affect development in our neighborhood. These are listed in the attached matrix, which also describes:

- The documents which guide the particular approval process (for example, the zoning code, or the Lower Downtown design guidelines);
- The boards which review the proposals and grant or deny approvals;
- The city review process;
- The notifications received by registered neighborhood organizations (RNOs) such as LoDoNA;
- And, the types of input formally available to RNOs and members of the public.

LoDoNA is notified about land use and development issues in a variety of ways:

- We are officially notified by the City of certain land use actions by mail or email. In these cases, we have opportunities to file our positions and to appear at a variety of public boards or at City Council to state our position.
- We receive agendas from the Lower Downtown Design Review Board (LDDRb).
- We are approached by developers who seek our input on new projects being proposed, or support in discretionary public approvals processes such as rezoning efforts.
- We are contacted by LoDoNA members who are aware of or concerned about a new project or proposal, and may urge LoDoNA to “take a position” on the issue.

There are two broad types of land use issues that can emerge and come to our attention. These are:

- **Actions that establish or change the regulatory framework.** These processes set the regulatory framework, including zoning and design guidelines, that determine what is permitted on a given property. These include the development of new neighborhood plans and amendments to the Denver Comprehensive Plan; rezonings (zoning map amendments); zoning language amendments; zoning variances or zoning appeals; landmark designations; and, street or alley vacations (where a street or alley is eliminated).
- **Actions that seek approval through the existing regulatory framework.** These include the review of designs in LoDo by the LDDRb; the review of designs for new buildings in areas outside LoDo by the Central Platte Valley design review board, City staff, and the Planning Board; and, the review of historic building renovations or new building designs in historic districts outside the Lower Downtown Historic District.

Dealing with an action that establishes or changes the regulatory framework:

Here, the LoDoNA board will usually take a position. The process of arriving at that position will vary significantly depending on the complexity of the process, and on the level of controversy regarding the issue.

In some cases, the position taken will be a simple “oppose, do not oppose, or take no position,” as requested by the City in its official notices. This is most typical in minor rezonings, zoning appeals, zoning language amendments, and street or alley vacations.

In some cases there is a more complex public involvement process leading to the decision point. This is more typical of the development or amendment of neighborhood plans, or rezonings that the sponsor anticipates may be controversial. Examples include the Lower Downtown Neighborhood Plan, which was arrived at through a several-year process involving a large committee of Lower Downtown stakeholders, the Denver Union Station Master Plan, which was developed with the input of a 96-person citizen advisory committee, and the Bell Park rezoning, which also involved an extensive stakeholder process.

In these cases, the LoDoNA board appoints one or more board members to participate and become involved; they regularly report back to the board on the ongoing process leading up to any decision point.

If the issue appears to be relatively minor or routine, it will be handled at a regularly scheduled board meeting, following these steps:

- a. A knowledgeable member of the board presents the issue and describes its impact on LoDo and/or the Central Platte Valley, and why he/she believes it to be a minor or routine issue.
- b. Other board members present their points of view.
- c. A motion is made to take a position (based on City guidelines, this is normally to “oppose, do not oppose, or take no position”).
- d. The board votes on the issue at that time.

If the board member(s) conducting the initial review, or the board as a whole following the initial discussion, deem it to be a major issue, the board may extend the evaluation of the proposal prior to taking a position.

The board or a subgroup of the board will take some or all of the following steps, with the goals of ensuring: that we are hearing all points of view; that we are allowing those who have strong opinions to be heard; that we fully understand existing ordinances, guidelines, and governing documents that have a bearing on the proposal; and that we are making an appropriate decision based on the long-term best interests of our neighborhoods.

In these cases, we should take some or all of the following steps:

- a. Review the requirements of the existing zoning, design guidelines, and other governing documents for the site.
- b. Hear directly from the proponent(s) of the proposal. If the sponsor has not approached us to make a board presentation we may invite him or her to present the proposal, or a subgroup of the board may meet with the sponsor between meetings to review the proposal.
- c. Gather, review and attempt to understand the objections of the opponents to the proposal, if any. If needed, this should include seeking input from members who live near a proposed project.
- d. Consult with the Council Person for District 9 and his or her staff regarding the issue, any additional information bearing on the decision that they may be aware of, and any input they may have received.
- e. Consult with City staff (most typically from the Planning and Community Development or Public Works Departments, or the City Attorney’s office) regarding the issue, any additional

information bearing on the decision that they may be aware of, and any input they may have received.

- f. Convene a public forum or a meeting for the affected residents, at which the sponsor can present the proposal, residents can voice their opinions and ask questions, and neutral third parties can assist by bringing their expertise to the discussion (for example, City staff may be asked to attend to explain aspects of the zoning code, design guidelines or existing plans).

Following this process, the LoDoNA board will be able to take positions on issues that are appropriate and reflect an informed assessment of the best interests of the neighborhood.

Dealing with a land use or development action that does not establish or change the regulatory framework:

In most cases, the LoDoNA board will not take a position on these issues, deferring instead to the board or authority charged with implementing the existing ordinances and guidelines. In reviewing these cases, the board asks the following questions:

- 1) Does the action being taken fall under the purview of the LDDR B?
 - a. If it falls under the purview of the LDDR B, is it an action that includes no changes to the existing zoning or design guidelines?
 - i. If yes, under most circumstances the LoDoNA board will defer to the decisions of the LDDR B.

The charge of the LDDR B is to review proposed designs in the Lower Downtown Historic District based on the Lower Downtown Neighborhood Plan, the approved design guidelines, the Streetscape Plan, the Vital Signs ordinance, and the Landmark Preservation Commission’s Design Guidelines for Landmark Structures and Districts.

LoDoNA and the other RNOs active in the Lower Downtown Historic District participated in the development of the documents guiding the LDDR B’s decision-making, and periodically provide input into the selection of new LDDR B board members. We support the neighborhood plan and design guidelines, and will not seek to challenge or change the existing guidelines in the context of the LDDR B’s review of proposed designs.

- ii. However, under the following circumstances, the LoDoNA board may consider providing input to the LDDR B (note that while meetings of the LDDR B have traditionally taken “courtesy” public comment, there is no legal requirement that they do so):

The design review process extends over several LDDR B meetings, and the design raises controversy among LoDoNA members and neighborhood residents specifically related to a lack of conformance with existing guidelines and ordinances.

In evaluating whether or not to give input to the LDDR, and deciding on the form of that input, the LoDoNA board will follow a procedure similar to that outlined in the preceding section, "Dealing with an action that establishes or changes the regulatory framework."

- iii. Under the following circumstances, the LoDoNA board may consider appealing the decision of the LDDR to the Landmark Preservation Commission:

A knowledgeable member of the LoDoNA board believes that the LDDR has made a decision that is detrimental to the neighborhood, either in its own right or as a precedent for future decisions, and is clearly contrary to the approved design guidelines, the Streetscape Plan, the Vital Signs ordinance, the zoning, or the Landmark Preservation Commission's "Design Guidelines for Landmark Structures and Districts."

In evaluating whether or not to appeal a decision of the LDDR, and deciding on the form of that appeal, the LoDoNA board will follow a procedure similar to that outlined for dealing with a major issue in the preceding section, "Dealing with an action that establishes or changes the regulatory framework." *The board will set a very high standard in deciding to follow this course of action.*

Ordinarily, the board would expect to see additional support for such an appeal from outside organizations or individuals with strong public reputations in evaluating the type of decision being appealed. Examples might include Historic Denver, the Mountain/Plains Office of the National Trust for Historic Preservation, or the Denver Chapter of the American Institute of Architects, or individuals with recognized professional expertise directly related to the issue under review. In preparing the appeal, members of the board would also seek input from people and organizations with appropriate expertise.

- b. If it falls under the purview of the LDDR and involves a change to the existing zoning or design guidelines in the Lower Downtown Historic District, the LoDoNA board will follow a procedure similar to that outlined in the preceding section, "Dealing with an action that establishes or changes the regulatory framework."

2) Does the action being taken fall under the purview of the Landmark Preservation Commission?

- a. Does the action involve the renovation of an existing building or a new design that includes no changes to the Landmark Commission design guidelines?

Under most circumstances the LoDoNA board will defer to the Landmark Preservation Commission. Possible exceptions would be reviewed under a procedure similar to that outlined in sections 1) a. ii above. The LoDoNA board is unlikely to consider appealing decisions of the Landmark Preservation Commission because the expense of the required court procedure would typically exceed the organization's means.

- b. Does the action involve a change to the Landmark Preservation Commission's "Design Guidelines for Landmark Structures and Districts"?

If the LoDoNA board believes the proposed change may impact Lower Downtown, the LoDoNA board will follow a procedure similar to that outlined earlier, which describes the board’s approach to decisions “dealing with an action that establishes or changes the regulatory framework.”

3) Does the action being taken involve the design of a new building within the Commons PUD¹?

Under most circumstances the LoDoNA board will defer to the Central Platte Valley Design Review Board, the city planning staff, and Planning Board review. These two review processes are independent, parallel processes that are conducted based on the same set of design guidelines. Developers are required to receive approval through both processes. Possible exceptions would be reviewed under a procedure similar to that outlined in sections 1) a.ii and iii above, with the proviso that decisions by the Central Platte Valley Design Review Board, which is not a public entity (it is an entity of Riverfront Park) are not appealable by the public. Note, the Planning Board’s decisions aren’t “appealable” as they are actually advisory, with the zoning administrator making the final determination. The zoning administrator’s decisions are appealable to the Board of Adjustment, and subsequently through a court procedure.

4) Does the action being taken involve the design of a new building outside the Lower Downtown District and outside the Commons PUD?

Under most circumstances the LoDoNA board will defer to the city planning staff and Planning Board review. Possible exceptions would be reviewed under a procedure similar to that outlined in sections 1) a.ii and iii above.

In evaluating all land use issues, the board will be cognizant that timeliness can be important. We need to move quickly on controversial issues to get out ahead of problems and be seen as an advocate for communication, dialogue and negotiation. In addition, many City processes have limited time periods for input. Further, we need to be alert to issues. When board members receive official notifications from City agencies, or notes, e-mail or phone calls from members and neighborhood residents—even if it is unclear whether or not they are receiving them in their capacity as LoDoNA board members—the LoDoNA president should be notified quickly so that review of the matter can be initiated promptly.

Attachments:

- Land Use Approval process matrix for the LoDoNA neighborhoods
- Zoning map for the LoDoNA neighborhoods
- Weblinks for guiding documents (zoning, design guidelines, etc.)
- Common questions and concerns

¹ A PUD, or “planned unit development”, is a type of zoning that is customized for a specific site or area.