
Sec. 94-104. - Prior development approvals.

- a. Existing buildings and uses within the DMP area which were legally established but do not conform to provisions of the urban regulations as of the effective date of these regulations shall be considered nonconforming, may not be replaced, restored or modified, except in conformity with the urban regulations, and shall follow the regulations for nonconformities contained in [ARTICLE XVI](#) of this chapter. When a nonconforming structure is destroyed by windstorm, flood, fire, or natural disaster, it may be replaced by a new structure of the same or lesser size, and reoccupied by the same use, if construction of such structure is commenced within 18 months of destruction. The owner of a public facility destroyed by windstorm, flood, fire, or other natural disaster may apply for a building permit for reconstruction so long as it is submitted to the Building Division within eighteen (18) months after the date of destruction, with the right to obtain a six (6) month administrative time extension from the Planning and Zoning Administrator.
- b. Proposed developments with site plans approved under the 1994 DMP shall commence construction within 18 months following the date of site plan approval. If commencement of construction does not occur during such 18-month period, the site plan approval shall automatically expire without further action by the city. A one-time six-month extension to commence construction may be granted by the planning director provided there is progress on building permit approval, as demonstrated by the building permit activity. An application for a site plan extension shall be submitted to the planning department at least 30 days prior to expiration.
- c. Residential incentive program (RIP) of the 1994 DMP.
 1. Proposed developments with site plans approved under the RIP shall commence construction within 18 months following the date of site plan approval. If commencement of construction does not occur during such 18-month period, the site plan approval shall automatically expire without further action by the city. A one-time six-month extension of time to commence construction may be granted by the planning director provided there is progress on building permit approval, as demonstrated by the building permit activity. An application for a site plan extension shall be submitted to the planning department at least 30 days prior to expiration.
 2. Developments approved under the RIP may be converted into an alternative permitted use provided the following conditions are met:
 - a. At least 15 years from the date of issuance of certificate of occupancy has passed.
 - b. All floors above the first floor shall be converted into the new permitted use.
- d. Transfer of development rights (TDRs) program of the 1994 DMP.
 1. Proposed developments which have received DAC approval for the TDRs and have a certificate of transfer issued under the 1994 DMP may complete the transfer to the approved receiving site even if the transfer results in an FAR which exceeds the FAR for which the site is eligible under the DMP urban regulations.

Where the proposed development is seeking a new site plan approval or a major amendment of an existing approved site plan, the FAR allowed on the site shall not exceed the FAR allowed by the corresponding subdistrict designation plus the amount of TDRs originally transferred to the site. DAC shall review the proposed development to determine appropriate building configuration, and design for compliance with the DMP urban regulations. Proposed developments which have received TDRs are not eligible for special incentives to increase height or FAR.
 2. Proposed developments which had previously received site plan approval utilizing the benefits of the TDR program must obtain DAC approval for the transfer of development rights and must possess the certificate of transfer before the site plan approval expires in order to develop under the TDR program.
- e. New planned developments (PDs) shall be prohibited and existing PDs shall not expand their boundaries. If a PD expires or is abandoned, the properties included within the PD shall be required to meet the district and subdistrict regulations in which the properties are located. Existing developments of regional impact (DRIs) may expand their boundaries, provided that they meet the statutory requirements pertaining to developments of regional impact.

(Ord. No. 4213-09, § 6 (Exh. A), 6-29-2009; Ord. No. [4917-20](#), § 3, 12-14-2020)