



Council Communication File Number: Ord 2516

Agenda Date: 7/24/2023

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Ordinance

FIRST READING OF AN ORDINANCE ADDING SECTION 21-3219 AND AMENDING SECTION 21-3200 OF THE CITY OF COMMERCE CITY LAND DEVELOPMENT CODE ALLOWING FOR THE REVIEW AND APPROVAL OF EARLY GRADING PERMITS

Summary & Background

The Land Development Code (LDC) (Ordinance #1798) was adopted by City Council in January 2009 and went into effect on March 1, 2009. The 2009 Land Development Code was a comprehensive update to the Commerce City Zoning Ordinance, which included a wide variety of topics dealing with development and land use, such as application types, zoning districts, use standards, subdivision procedures, design standards and signs. The existing LDC and regulations guide development to ensure consistent and orderly processes. Amendments to the LDC are proposed to clarify and streamline processes and requirements for future development.

City of Commerce City staff have received increased inquiries by the development community requesting early grading of sites for planned developments. In order to facilitate development location and streamline processes with common procedures practiced by surrounding communities, ordinance 2516 adds Early Grading Permits to the LDC. Early Grading Permits provide the ability for project owners to begin grading of a property prior to final approval of an applicable Development Plan, PUD Development Permit, Plat, or final Construction Documents. Specifically, this permit allows for the clearing and grading of the property only. Any other work proposed requires a separate applicable permit. There are limitations to approval of an early grading permit however. There are eight proposed approval criteria outlining when an early grading permit may be applied for and approved, including the following;

1. Erosion and sediment control plans are submitted and comply with City standards;
2. The subject property is not part of any active public hearing (e.g. variances, zoning, and conditional uses);
3. A preliminary drainage report has been approved;
4. The subject property is not within a floodplain;
5. A grading surety has been accepted;
6. No variances or waivers related to grading requirements are requested or are necessary in conjunction with the final subdivision application;
7. An applicable State stormwater permit has been acquired; and
8. Existing healthy trees greater than eight inches caliper are identified and

preserved where possible.

In addition, a project owner is required to execute a waiver and consent form, agreeing to hold the City of Commerce City, its Council, staff and representatives harmless as it pertains to the early grading and associated work, and any changes that may become necessary. Other limitations to improvements exist in the proposed ordinance such as a six-month commencement deadline, a 60-day stabilization requirement, and language clearly stating that an Early Grading Permit does not create a vested right or interest, and does not constitute approval of roadway design, construction documents, foundation plans, or building site pad grading. A Grading Permit is still required prior to infrastructure or building construction. Proposed Ordinance 2515 relating to foundation only permits is interrelated with this ordinance because a grading permit is one of the qualifications for a foundation-only permit.

Lastly, Section 21-3200. Required Review is amended to reflect the change in review process as described earlier.

Staff Responsible (Department Head): Tricia McKinnon, Acting Community Development Director

Staff Presenting: Nathan Chavez, City Planner

Financial Impact: N/A

Funding Source: N/A

Staff Recommendation: Approval of Ordinance 2516

Action Alternatives:

Deny the ordinance; or

Continue the application to a subsequent City Council hearing.

Potential Motions:

Approval

I move that the City Council approve the proposed Land Development Code text amendment contained in Ordinance 2516.

Denial

I move that the City Council deny the proposed Land Development Code text amendment contained in Ordinance 2516.

Continuance

I move that the City Council continue discussion of the proposed Land Development Code text amendment contained in Ordinance 2516 to:

The next regularly scheduled City Council hearing; or

A date certain.