



STAFF REPORT

Planning Commission

Ordinance #1938	
PC Date:	November 7, 2012
Case Planner:	Paul Workman
CC Date:	December 3, 2012
Location:	City-Wide
Applicant:	The City of Commerce City
Address:	7887 E. 60 th Avenue Commerce City, CO 80022

Summary	
Request:	As was recommended by Planning Commission in a study session on September 4 th and directed by City Council in a study session on September 24 th , staff is requesting amendments to the Land Development Code (LDC) in order to lower the Floor Area Ratio (FAR) requirements in straight zone districts and allow for the administrative reduction to FAR requirements in both straight zone districts and Planned Unit Development (PUD) Zone Districts.
Project Description:	<p>The Land Development Code (LDC) was adopted by City Council in January of 2009 and went into effect on March 1, 2009. The adoption of the LDC was a comprehensive update to the Commerce City Zoning Ordinance, which included a wide variety of topics related to development, land use, and procedures for development.</p> <p>Since its adoption, the LDC has been and will continue to be a living document that is amended and updated on a consistent basis so that the information in the document stays relevant and reflective of the needs of the Commerce City community. The proposed revisions to the FAR requirements represent a pro-active approach by the city to continue to foster an environment that meets the needs of the development community while ensuring a “Quality Community for a Lifetime”.</p>
Staff Recommendation:	Approval

Land Development Code (LDC) Amendment History

Since its adoption in 2009, several amendments have been made to the Land Development Code (LDC) in an effort to maintain a “living document”. As a growing community, Commerce City’s needs are evolving and monitoring the city’s development regulations helps to ensure that the LDC remains relevant and reflects the community’s values. Staff will continue to monitor issues that arise and track those issues in order to make necessary changes in the future. Therefore, future amendments and updates should be expected.

<u>Ordinance</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
Ord. #1720	January 2009	Adoption of the LDC	Approval
Ord. #1770	November 2009	Medical marijuana dispensary regulations	Approval
Ord. #1785	May 2010	Housekeeping amendments to the LDC	Approval
Ord. #1810	June 2010	Garage size amendment	Approval
Ord. #1854	March 2011	Housekeeping amendments to the LDC	Approval
Ord. #1887	July 2012	Housekeeping amendments to the LDC	Approval
Ord. #1891	August 2012	Oil and gas regulations	Approval
Ord. #1897	July 2012	Medical marijuana dispensary amendments	Approval
Ord. #1916	September 2012	Alcohol sales amendments	Approval

Ordinance #1720:

In January of 2009, City Council voted unanimously to adopt the Land Development Code.

Ordinance #1770:

In November of 2009, City Council approved the addition of medical marijuana regulations to the Land Development Code.

Ordinance #1785:

In May of 2010, City Council approved 24 minor house-keeping amendments to the Land Development Code.

Ordinance #1810:

In June of 2010, City Council approved an amendment to the minimum garage sizes for residential development under eight acres in size.

Ordinance #1854:

In March of 2011, City Council approved 20 minor house-keeping amendments to the Land Development Code.

Ordinance #1887:

In July of 2012, City Council approved 28 minor house-keeping amendments to the Land Development Code.

Ordinance #1891:

In August of 2012, City Council approved the addition of oil and gas regulations to the Land Development Code.

Ordinance #1897:

In July of 2012, City Council approved amendments to the medical marijuana regulations in the Land Development Code.

Ordinance #1916:

In September of 2012, City Council approved amendments to the regulations for alcohol sales in the Land Development Code.

Request and Analysis

Background:

As was referenced above, staff brought this topic to Planning Commission as a study session item on September 4th and then to City Council at a study session on September 24th. During these study sessions, the following items were discussed:

- Floor Area Ratio (FAR) requirements have been in place in the PUD Zone Districts since the beginning of development in the northern range and were incorporated into the adoption of the LDC because concerns were raised by the community about industrial property being used strictly for outdoor storage.
- The FAR requirements have been helpful to ensure that buildings are constructed as part of development, but a high minimum FAR requirement can be problematic for very small and very large lots.
- Planning Commission and City Council agreed that revisions to the FAR requirements were necessary, but still want to ensure that quality buildings are constructed as part of development, that landscaping is not sacrificed as part of a reduction in FAR, that the FAR requirements are consistent across the city, and that there is a common sense approach to regulating FAR.
- Planning Commission and City Council's direction was to lower the FAR requirements in the straight zone districts (except for the MU-1 zone district) and allow for the administrative reduction in FAR as part of the existing Minor Modification process.

Proposed Revisions:

Based on the direction of Planning Commission and City Council, the following changes are being proposed to the LDC:

Revise Article IV - Division 3 to the following:

Section	Proposed FAR Requirement
21-4325 (C-1 Local Commercial)	Minimum - .05
21-4330 (C-2 General Commercial)	Minimum - .05
21-4335 (C-3 Regional Commercial)	Minimum - .05
21-4345 (I-1 Light-Intensity Industrial)	Minimum - .05
21-4350 (I-2 Medium-Intensity Industrial)	Minimum - .05
21-4355 (I-3 Heavy-Intensity Industrial)	Minimum - .05

Revise Article III – Division 2 to the following (changes in red):

Section 21-3215

- 1) **Description.** The following deviations from the city’s general standards or approved PUD zone documents are considered minor modifications:
 - a. Up to 20 percent of any minimum or maximum standard;
 - b. And additional one foot of fence height;
 - c. Up to 50 percent of the minimum fence setback;
 - d. A screen fence instead of an open style fence; **or**
 - e. **A reduction to the Floor Area Ratio requirement.**

The modification of any design standard set forth in article VII shall not be considered a minor modification and shall be governed by the sections in article VII that discuss alternative compliance.

- 2) **Prohibited Modifications.** In no circumstance shall the director approve a minor modification that is not listed specifically above, or that results in any of the following:
 - a. An increase in permitted maximum development density or intensity;
 - b. A change in permitted uses or mix of uses;
 - c. An increase in building height over 10 percent; or
 - d. A decrease in the amount of required common or dedicated open space.
- 3) **Review.** The director reviews minor modification applications and is authorized to approve, approve with conditions, or deny the applications based on the approval criteria outlined below.
- 4) **Approval Criteria.** A minor modification may be approved if the director finds that:
 - a. The modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the Federal Fair Housing Amendments Act: or
 - b. All of the following have been met:
 - i. The requested modification is consistent with the comprehensive plan and the stated purpose of this land development code;
 - ii. As applicable, the requested modification is consistent with the final plan or plat;
 - iii. The requested modification will have no significant adverse impact on the health, safety, or general welfare of surrounding property owners or the general public;
 - iv. Any adverse impacts resulting from the modification will be mitigated to the maximum extent feasible;
 - v. That no additional dwelling units would result from approval of such minor modification; and
 - vi. The requested modification is either:
 - a. Of a technical nature and is required to compensate for some practical difficulty or unusual aspect of the site or the proposed development that is not shared by landowners in general; or
 - b. An alternative or innovative practice that reasonably achieves the objective of the existing standard sought to be modified.
 - c. **A minor modification to a Floor Area Ratio requirement may be approved if the director finds that the criteria above have been met and all of the following have been met:**

- i. The reduction in Floor Area Ratio will not result in the property being used solely for outdoor storage.
- ii. The proposed development exceeds the city's minimum landscape standards in one of the following ways:
 - a. The buffer area for incompatible land uses found in Table VII-18 has been increased by 50%;
 - b. The living plant material coverage required in Table VII-13 is equal to 100% of the landscape square footage area;
 - c. The number of trees and shrubs required by Table VII-13 has been increased by 25%; or
 - d. The overall landscape square footage area has been increased by 10% (excluding right-of-way landscaping and parking lot perimeter landscaping).
- iii. The proposed development demonstrates an architectural design quality that exceeds the LDC's minimum architectural design standards.
- iv. The subject property is not located within one half mile of the following, as they are identified in the Comprehensive Plan:
 - a. Transit Station;
 - b. Redevelopment Focus Area;
 - c. Employment Campus/Business Center;
 - d. Regional Commercial Center; or
 - e. Activity Center
- v. If the subject property is visible from an arterial street, a state or US highway, or a limited access expressway as identified by the Transportation Plan, a masonry wall or similar high quality wall and additional landscaping has been incorporated to screen any outdoor storage from view.
- vi. In cases where the applicant requests that the Floor Area Ratio be reduced to zero:
 - a. The property must be 5 acres or more in size; and
 - b. The project implements the goals and objectives of the city's economic development plan.

5) Documentation of Approval.

- a. Pending Applications. Approved modifications shall be noted by the director on the relevant pending development application.
- b. Approved Plans/Plats. Minor modifications to any approved development plan, final PUD development permit, or final plat shall be noted on a revised plan/plat, which shall be plainly marked as amended and submitted by the applicant to the director. The director shall note the terms of the approved modification directly on the amended plan/plat and affix his signature and the date of approval. As applicable, such amended plan/plat shall be recorded.

Request Summary:

In accordance with Planning Commission's and City Council's direction during the study sessions, the minimum FAR requirement in straight zone districts is proposed to be reduced and the minor modification section of the LDC has been revised to include a reduction to all FAR requirements.

Development Review Team Recommendation

Based on the information provided above, the Development Review Team recommends that the Planning Commission forward the requested amendments to the LDC to the City Council with a **favorable** recommendation.

Recommended Motion

To recommend approval (DRT recommendation):

I move that the Planning Commission recommend that City Council adopt an ordinance amending the Commerce City Land Development Code as presented in this staff report.

Alternative Motions

To recommend approval with modifications:

I move that the Planning Commission recommend that City Council adopt an ordinance amending the Commerce City Land Development Code as follows:

Proposed Amendment