

ORDINANCE NO: 1938

INTRODUCED BY: BENSON, BULLOCK, CARSON, DOUGLAS, ELLIOTT,
FORD, MCELLOWNEY, MORENO, TETER

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE LAND DEVELOPMENT CODE RELATED TO FLOOR AREA RATIOS

WHEREAS, the City Council of the City of Commerce City adopted the Land Development Code by Ordinance 1720; and

WHEREAS, the Land Development Code became effective March 1, 2009; and

WHEREAS, the ongoing application and interpretation of the Land Development Code suggests that modifications to the Floor Area Ratio requirements would be in the best interest of the public; and

WHEREAS, the City Council of the City of Commerce City wishes to modify the Floor Area Ratio requirements to better serve the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. The following sections of the Land Development Code of the City of Commerce City are hereby amended to read as follows:

Sec. 21-3215. Minor Modifications.

- 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 (excluding traditional bus stops);
 - 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.

SECTION 2. Tables IV-9, IV-10, IV-11, IV-13, IV-14, and IV-15 of the Land Development Code are hereby amended to establish .05 as the minimum floor area ratio for each.

SECTION 3. Except as specifically modified herein, the provisions of the Land Development Code shall remain unchanged and in full force and effect.

SECTION 12. This ordinance shall take effect February 1, 2013.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 3rd DAY OF DECEMBER, 2012.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 7th DAY OF JANUARY, 2013.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk