

AGENDA ITEM SUMMARY

July 21, 2015

City Council

STAFF

Cameron Gloss, Planning Manager

SUBJECT

Second Reading of Ordinance No. 082, 2015, Amending the Land Use Code with Regard to City Development Projects.

EXECUTIVE SUMMARY

Ordinance No. 082, 2015, unanimously adopted on First Reading on July 7, 2015, amends the Land Use Code to require any development review project in which the City is an applicant to be reviewed by the Planning and Zoning Board (P&Z) and eliminate formal appeals to the City Council while allowing a Council override of a P&Z decision.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, July 7, 2015 (w/o attachments) (PDF)
2. Ordinance No. 082, 2015 (PDF)

AGENDA ITEM SUMMARY

City Council

July 7, 2015

STAFF

Cameron Gloss, Planning Manager

SUBJECT

First Reading of Ordinance No. 082, 2015, Amending the Land Use Code with Regard to City Development Projects.

EXECUTIVE SUMMARY

The purpose of this item is to amend the Land Use Code to require any development review project in which the City is an applicant to be reviewed by the Planning and Zoning Board (P&Z) and eliminate formal appeals to the City Council while allowing a Council override of a P&Z decision.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Currently, City development projects are subject to the same development review process as any private sector development project. As such, the project is required to meet all Land Use Code (LUC) requirements and be subject to a Type 1 or Type 2 hearing as outlined in the LUC. Any resulting decision may be appealed to the City Council. Therefore the Council has been prevented from participating in ex parte discussions in order to avoid procedural issues in the event an appeal of the decision is sought. In many cases the City Council has authorized a City project to advance through the development review process through a strategic planning and budgeting process. Since the Council has input at the beginning of the project it has been confusing to the public when the Council is not allowed to participate during the development review process except in deciding appeals that are brought to Council.

At its May 26, 2015 Work Session on this topic, Council agreed to consider changing the current Ordinance and directed staff to proceed with drafting a new Ordinance. Council further directed staff to include the new alternate process requirements for Council if the current appeal process is eliminated. Those requirements include the number of days a Council member can have to file an appeal and the method to be used to review the decision by the P&Z.

The proposed ordinance recommended by staff includes the following review process for projects where the City is the applicant:

1. All City projects are subject to Type 2 (P&Z) Review.
2. There is no right of appeal to City Council for City projects.
3. Any Councilmember may initiate the alternate Council review for the City project in question with a written request made within 14 days of the P&Z decision.
4. The Council may, by majority vote, overturn or modify the P&Z decision through a resolution.

5. Projects subject to Council review may be evaluated under the same Land Use Code review criteria as the P&Z, except the Council also has the authority, in its legislative discretion, to consider factors in addition to or in substitution of the standards of the Land Use Code.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION RECOMMENDATION

At its February 12, 2015 meeting, the Planning and Zoning Board held a public hearing and voted 5-0 (Boardmembers Heinz and Hobbs absent) to recommend the LUC amendments. (**Attachment 1**)

PUBLIC OUTREACH

In addition to outreach conducted during the Planning and Zoning Board hearing on February 12, 2015, City Council held a work session on May 26, 2015. (**Attachment 2**)

ATTACHMENTS

1. Planning and Zoning Board minutes, February 12, 2015 (PDF)
2. Work Session Summary, May 26, 2015 (PDF)
3. Powerpoint presentation (PDF)

COPY

ORDINANCE NO. 082, 2015
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE LAND USE CODE WITH REGARD TO
CITY DEVELOPMENT PROJECTS

WHEREAS, currently the Land Use Code provides that City development projects must go through the same process and analysis as any other project subject to the Land Use Code; and

WHEREAS, the City Council has determined that although such City projects should be reviewed under the full terms and conditions of the Land Use Code, all such reviews should be conducted by the Planning and Zoning Board, and there should be no right of quasi-judicial appeal to the City Council of any final decision regarding such City projects; and

WHEREAS, the City Council has further determined that in substitution of right of quasi-judicial appeal, the City Council in its legislative function should, by majority vote, have the power to overturn or modify any final decision regarding such City project; and

WHEREAS, the City Council has determined that it is in the best interests of the City that the Land Use Code be amended accordingly.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 2.2.12 of the Land Use Code is hereby amended to read as follows:

2.2.12 Step 12: Appeals/Alternate Review

(A) *Appeals.* Appeals of any final decision of a decision maker under this Code shall be only in accordance with Chapter 2, Article II, Division 3 of the City Code, unless otherwise provided in Divisions 2.3 through 2.11 and 2.16 of this Code.

(B) *Alternate Review.* Despite the foregoing, if the City is the applicant for a development project, there shall be no appeal of any final decision regarding such development project to the City Council. In substitution of an appeal of a development project for which the City is the applicant, the City Council may, by majority vote, as an exercise of its legislative power and in its sole discretion, overturn or modify any final decision regarding such project, by ordinance of the City Council. Any Councilmember may request that the City Council initiate this exercise of legislative power but only if such request is made in writing to the City Clerk within fourteen (14) days of the date of the final decision of the Planning and Zoning Board. City Council shall conduct a hearing prior to the adoption of the ordinance in order to hear public testimony and receive and consider any other public input received by the City Council (whether at or before the hearing) and shall conduct its hearing in the manner customarily employed by the Council for the consideration of legislative matters. When evaluating City projects

under alternate review, the City Council may, in its legislative discretion, consider factors in addition to or in substitution of the standards of this Land Use Code.

Section 2. That Article 2 of the Land Use Code is hereby amended by the addition of a new Division 2.17 which reads in its entirety as follows:

Division 2.17 City Projects

Development projects for which the City is the applicant shall be processed in the manner described in this Land Use Code, as applicable, but shall be subject to review by the Planning and Zoning Board in all instances, despite the fact that certain uses would otherwise have been subject to administrative review.

Introduced, considered favorably on first reading, and ordered published this 7th day of July, A.D. 2015, and to be presented for final passage on the 21st day of July, A.D. 2015.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of July, A.D. 2015.

Mayor

ATTEST:

City Clerk