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RESOLUTION NO. 21-320

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF COLORADO

APPROVAL OF AMENDMENT TO THE LAND DEVELOPMENT CODE (LDC-21-002) – EARLY GRADING AMENDMENT TO CHAPTER 6 OF THE EL PASO COUNTY LAND DEVELOPMENT CODE (2021) PERTAINING TO PRE-SUBDIVISION SITE GRADING

WHEREAS, the Planning and Community Development Department of El Paso County requests approval of Amendment to Chapter 6 of the Land Development Code pertaining to Pre-Subdivision Site Grading

WHEREAS, a public hearing was held by the El Paso County Planning Commission on August 5, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the proposed amendments, and

WHEREAS, a public hearing was held by this Board on August 10, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The proposed amendment(s) to the El Paso County Land Development Code Choose an item. properly submitted for consideration by the Planning Commission.
2. Proper publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons were heard at that hearing.
4. All data, surveys, analyses, and studies, as are required by the State of Colorado and El Paso County have been submitted, reviewed, and were received into evidence and found to meet the intent of the Introductory Provisions of the Land Development Code.

5. For the above-stated and other reasons, the proposed Amendment(s) are in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the amendment to Chapter 6 of the El Paso County Land Development Code, including other conforming amendments throughout the Code, as represented on the attached Exhibit "A" by underlining (additions) and strike-through (deletions):

AND BE IT FURTHER RESOLVED that the Executive Director of Planning and Community Development is hereby authorized and directed to develop procedures for the provision of public notice of and opportunity to submit comments on applications for administrative plat approval and for the appeal of administrative plat approval or denial to the Board of County Commissioners.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 10th day of August 2021 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By:

County Clerk & Recorder



By:

Chair

Alan T. VanderWay

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EXHIBIT A

See attached.

6.2.6. Pre-Development Subdivision Site Grading

- (A) **Pre-Development Subdivision Site Grading Allowed.** Pre-development subdivision site grading may ~~can~~ only occur after issuance of a construction permit by the ECM Administrator in accordance with this Section and the requirements of the ECM. ~~(B) — Pre-Development Site Grading Requirements.~~ A construction permit for pre-development site grading will only be issued if the following requirements are met, in addition to those required in the ECM: Approval and issuance of the construction permit and ESQCP for pre-subdivision site grading does not guarantee or create a right, or right of expectation that the BoCC will approve the preliminary plan or final plat for the subject property. Approval of pre-subdivision site grading does not guarantee that additional grading will not be required based on final grading plans and construction drawing approvals.
- (B) **Pre-Subdivision Site Grading Requirements.** A construction permit for pre-subdivision site grading will only be issued if the following requirements are met, in addition to the requirements in the ECM:
- (1) **BoCC Approved PCD Director and ECM Administrator Approval Required.** Issuance. ~~The BoCC shall approve the preliminary plan for the subject property and authorize the ECM Administrator to issue of a construction permit for pre-development subdivision site grading, which requires prior approval by the PCD Director and ECM Administrator of the pre-subdivision site grading plan. Approval of the pre-subdivision site grading plan shall include authorization for the ECM Administrator to accept the construction sureties surety required by the ECM. Any request for approval of pre-subdivision site grading which includes the installation of wet utilities shall require prior approval by the BoCC.~~
 - (2) **Grading to Conform to this Code and ECM.** Pre-development subdivision site grading shall conform to the grading and erosion and sediment control requirements of this Code and the ECM, except as specifically modified by this Section.
 - (3) **ESQCP Required Prior to Issuance of a Construction Permit.** ~~The An ESQCP approved by the ECM Administrator shall issue an ESQCP in accordance with the requirements of the ECM must be obtained prior to the issuance of a construction permit for pre-development subdivision site grading. A construction permit for pre-development subdivision site grading shall meet all requirements of the ECM for issuance of an ESQCP.~~
 - (4) **Where Required Drainage Structures Required.** ~~Detailed engineering information meeting the requirements of the ECM will be required when drainage structures or~~ **Report and Construction Drawings.** If stormwater facilities are required to be constructed as part of the pre-development subdivision site grading. ~~All information required in, submission to and approval by the ECM Administrator of a) a drainage report meeting the ECM standards for a final drainage report for these and b) stormwater facilities shall be provided to the ECM Administrator and approved construction documents must occur before the issuance of a construction permit will be authorized. In addition, construction documents for all drainage facilities or structures to be constructed as part of the proposal for pre-development site grading shall be provided for review and approval can be issued. The construction permit application documents shall demonstrate to the satisfaction of the ECM Administrator that no adverse impact will occur to any offsite property or drainageway, including property downstream of the activity.~~
 - (5) **Acknowledgement Form Required.** A Pre-Development Subdivision Site Grading Acknowledgment and Right of Access Form shall be completed and submitted with the construction permit application. Approval and issuance of the construction permit and ESQCP for pre-development site grading does not guarantee or create a right, or right of expectation that the BoCC will approve the final plat for the subject property. The Pre-Development Site Grading

~~Acknowledgment~~The Form acknowledges that the owner signatory will proceed to perform grading under the construction permit and ESQCP at ~~signatory's sole risk.~~

- ~~(6) their own risk. The construction permit shall be personal to the property owner and shall not run with the land. Any change in property ownership prior to stabilization of the site requires the new owner to execute their own Pre-Subdivision Site Grading Acknowledgement and Right of Access Form, obtain a separate construction permit and ESQCP, receive approval of an updated Financial Assurance Estimate and provide the associated surety.~~
- (6) **Surety Required.** Construction and stormwater ~~Financial Assurance~~surety for the benefit of the BoCC for the cost of the erosion control measures and noxious weed management plan requirements shall be provided in conformance with this Code and the ECM. Surety for pre-subdivision site grading shall be in the form of cash, Certified or Cashier's Check, or letter of credit, unless another form is approved by the ECM Administrator.
- (7) **Compliance with State and Federal Requirements.** The applicant is responsible to obtain the necessary permits and comply with all other applicable federal, State, or local rules and regulations that may be required prior to commencing ~~pre-development~~subdivision site grading, including, but not limited to, Section 404 permits, floodplain development permits, dust permits, permits under the federal Clean Water Act, and Section 7 or Section 10 permits under the Endangered Species Act from the U.S. Fish & Wildlife Service.
- (8) ~~Financial Assurance~~**Surety Combined with Subdivision Construction ~~Financial Assurance~~, Surety.** The construction and stormwater ~~Financial Assurance~~surety for ~~pre-development~~subdivision site grading may be consolidated with the construction ~~Financial Assurance~~surety for the common subdivision and public improvements when a final plat is approved by the BoCC, or administratively and upon issuance of an updated construction permit.
- (9) **Release of ~~Financial Assurance~~, Surety.** Construction and stormwater ~~Financial Assurance~~surety shall be released in full or in part in accordance with procedures set forth in the ECM.

6.2.6. Pre-Subdivision Site Grading

- (A) **Pre-Subdivision Site Grading Allowed.** Pre-subdivision site grading can only occur after issuance of a construction permit by the ECM Administrator in accordance with this Section and the requirements of the ECM. Approval and issuance of the construction permit and ESQCP for pre-subdivision site grading does not guarantee or create a right, or right of expectation that the BoCC will approve the preliminary plan or final plat for the subject property. Approval of pre-subdivision site grading does not guarantee that additional grading will not be required based on final grading plans and construction drawing approvals.
- (B) **Pre-Subdivision Site Grading Requirements.** A construction permit for pre-subdivision site grading will only be issued if the following requirements are met, in addition to the requirements in the ECM:
- (1) **PCD Director and ECM Administrator Approval Required.** Issuance of a construction permit for pre-subdivision site grading requires prior approval by the PCD Director and ECM Administrator of the pre-subdivision site grading plan. Approval of the pre-subdivision site grading plan shall include authorization for the ECM Administrator to accept the construction surety required by the ECM. Any request for approval of pre-subdivision site grading which includes the installation of wet utilities shall require prior approval by the BoCC.
 - (2) **Grading to Conform to this Code and ECM.** Pre-subdivision site grading shall conform to the grading and erosion and sediment control requirements of this Code and the ECM, except as specifically modified by this Section.
 - (3) **ESQCP Required Prior to Issuance of a Construction Permit.** An ESQCP approved by the ECM Administrator in accordance with the ECM must be obtained prior to the issuance of a construction permit for pre-subdivision site grading. A construction permit for pre-subdivision site grading shall meet all requirements of the ECM.
 - (4) **Required Drainage Report and Construction Drawings.** If stormwater facilities are required to be constructed as part of the pre-subdivision site grading, submission to and approval by the ECM Administrator of a) a drainage report meeting the ECM standards for a final drainage report and b) stormwater facilities construction documents must occur before a construction permit can be issued. The construction documents shall demonstrate to the satisfaction of the ECM Administrator that no adverse impact will occur to any offsite property or drainageway, including property downstream of the activity.
 - (5) **Acknowledgement Form Required.** A Pre-Subdivision Site Grading Acknowledgment and Right of Access Form shall be completed and submitted with the construction permit application. The Form acknowledges that the owner signatory will proceed to perform grading under the construction permit and ESQCP at their own risk. The construction permit shall be personal to the property owner and shall not run with the land. Any change in property ownership prior to stabilization of the site requires the new owner to execute their own Pre-Subdivision Site Grading Acknowledgment and Right of Access Form, obtain a separate construction permit and ESQCP, receive approval of an updated Financial Assurance Estimate and provide the associated surety.
 - (6) **Surety Required.** Construction and stormwater surety for the benefit of the BoCC for the cost of the erosion control measures and noxious weed management plan requirements shall be provided in conformance with this Code and the ECM. Surety for pre-subdivision site grading shall be in the form of cash, Certified or Cashier's Check, or letter of credit, unless another form is approved by the ECM Administrator.

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- (7) **Compliance with State and Federal Requirements.** The applicant is responsible to obtain the necessary permits and comply with all other applicable federal, State, or local rules and regulations that may be required prior to commencing pre-subdivision site grading, including, but not limited to, Section 404 permits, floodplain development permits, dust permits, permits under the federal Clean Water Act, and Section 7 or Section 10 permits under the Endangered Species Act from the U.S. Fish & Wildlife Service.
 - (8) **Surety Combined with Subdivision Construction Surety.** The construction and stormwater surety for pre-subdivision site grading may be consolidated with the construction surety for the common subdivision and public improvements when a final plat is approved by the BoCC or administratively and upon issuance of an updated construction permit.
 - (9) **Release of Surety.** Construction and stormwater surety shall be released in full or in part in accordance with procedures set forth in the ECM.